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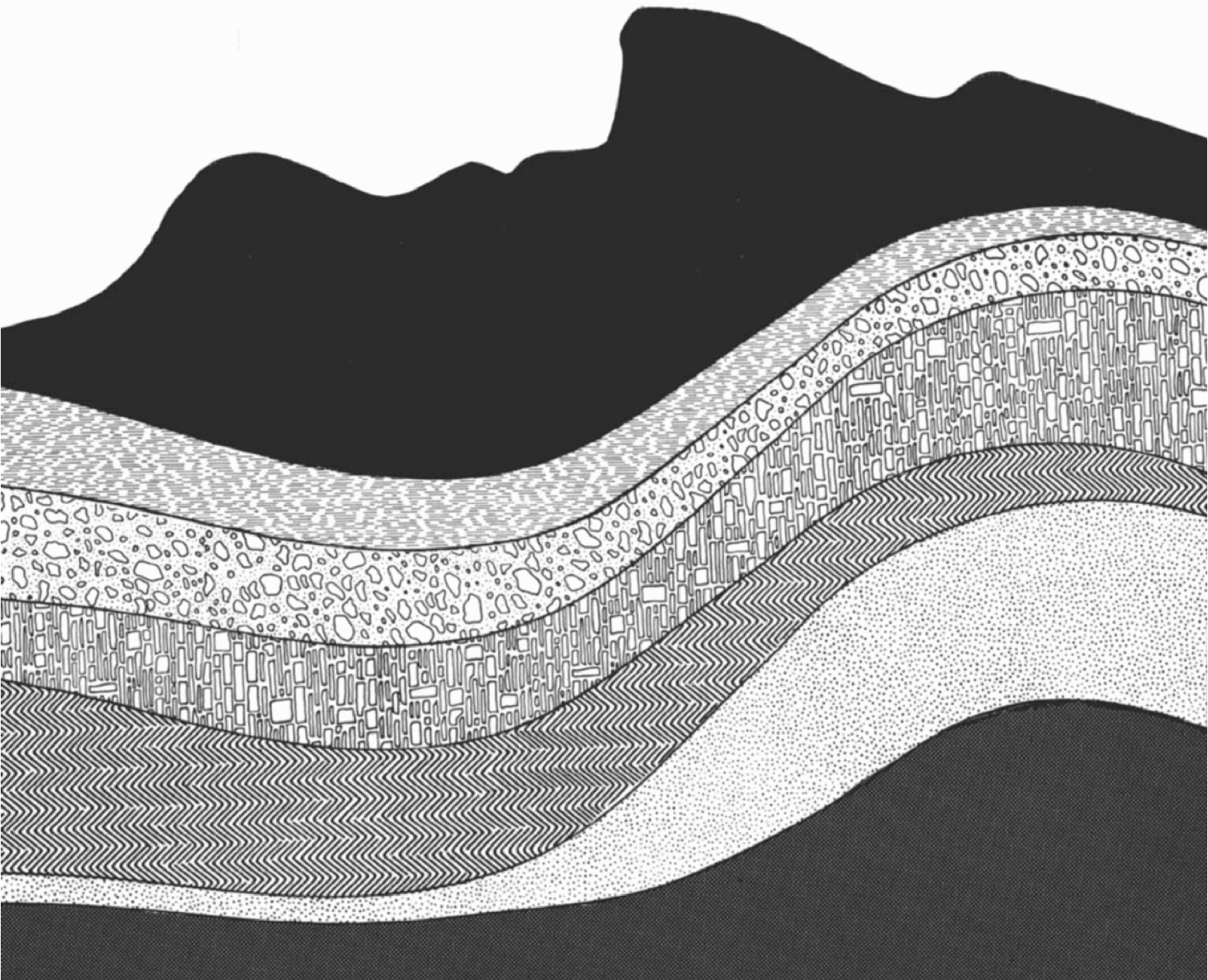
BRIAN SUMMERS

MUST WE
ABOLISH THE STATE?
ARTHUR SHENFIELD



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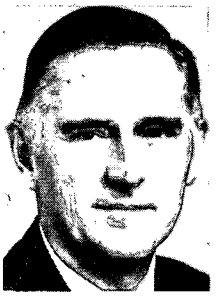
"The current recovery will abort and the economy will sink into a depression of unparalleled proportions"



John Exter is a retired senior vice-president of First National City Bank, the nation's second largest bank, where he served in its International Banking Group. Before joining Citibank, he was a vice president of the Federal Reserve Bank of New York. Currently, Mr. Exter is a consultant and lecturer on domestic and international money.

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"I don't agree [with most economists] that a major recovery lies ahead. I believe the current recovery will abort, and the economy will sink into a depression."

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How severe does he expect it to be?

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A forum for analysis and commentary, with an emphasis on individual liberty

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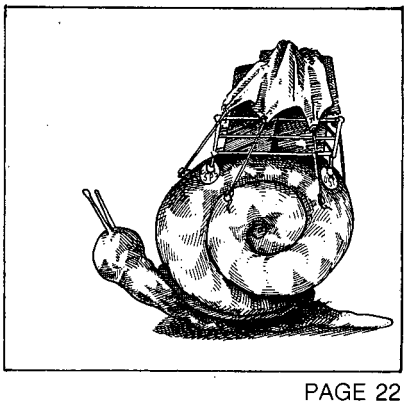

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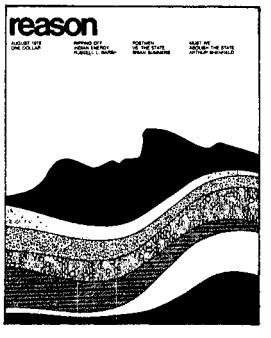

This month's cover by Phil Groves illustrates the theme of Russell L. Barsh's article on Indian energy resources.

REASON is published monthly by Reason Enterprises, 1169 Summit Road, Santa Barbara, CA 93108. Tel. (805) 969-6290. Second class postage paid at Santa Barbara, CA and at additional mailing offices. Postmaster: Please send Form 3579 to REASON, Box 40105, Santa Barbara, CA 93103. Copyright ©1976 by Reason Enterprises. All rights reserved. Opinions expressed in signed articles or columns do not necessarily represent the view of the editors.

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LETTERS

USSR AND ANGOLA

Murray Rothbard's column "The Angola Caper" [April] correctly identifies certain key issues in Africa: that most African countries were not really countries, but "administrative creatures of Western Imperialism;" and that if outside hands are kept off, these countries would rapidly disintegrate into their natural tribal units. This would probably be best for all concerned, including black Africans.

However, Mr. Rothbard's conclusion that "there is no rational excuse whatever for American intervention in the African continent," does not take into consideration the strategic importance to the United States of southern Africa, in an increasingly probable global war, and the *fact* that outside hands are not being kept off of Africa. Stalin's military strategy viewed Africa as the mineral reserve of the West. Today the Russian fleet may be in a position to neutralize these reserves. A naval and air base in Angola greatly enhances Russian capabilities in the South Atlantic. Most of Europe's oil consumption, and 25 percent of her food supplies must pass through this area after rounding the Cape of Good Hope.

While it may be getting late to avoid WW III, one hope lies in blocking the Russians from occupying a position of obvious strategic superiority, since it is only from such a position that they are likely to consider aggression.

It goes without saying that blocking Russia in Africa, while at the same time helping build her military power through trade, is a gross contradiction, as regards American interests.

Stephen A. Zarlenga
New York, NY

Dr. Rothbard replies: Mr. Zarlenga's letter is symptomatic of the curious and unfortunate tendency on the right-wing, not only to revive all the discredited concepts of the Cold War, but to do so in terms that have been technologically and strategically obsolescent for generations. Come, come: must we really go back to the blatherings of Admiral Mahan and his obsession with sea lanes—now, in the age of missiles and nuclear devastation?

If Mr. Zarlenga is right about an "increasingly probable global war," then we'll have a lot more to worry about than the Cape of Good Hope; in fact, we'd all better hie ourselves to a cave, preferably in the South Seas, with our stock of dried beans. The only strategic "position" that Americans, or indeed the human race, need worry about is the invulnerable second strike nuclear capability that the U.S. and the Russians have to overkill the other nation many times over.

It is curious that the people who are worried about the Russians cutting off our access to mineral and other resources are the very same ones who advocate the forcible cutting off of East-West trade. Mr. Zarlenga's reference to "helping build her (Russia's) military power through trade" ignores two centuries of economic science, which demonstrates that *both* parties benefit from all trade. Is it really necessary to expound the benefits of free trade in a libertarian publication? As for the military buildup, both nations, as I've just noted, *already* possess nuclear overkill many times over. What we *should* be concerned with is removing the nuclear sword of Damocles over the human race. —M.N.R.

TAX QUESTIONS

It was with a bit of shock that I finished Mr. David Bergland's article [April] entitled "The Risks of Tax Resistance." An attorney who intends to represent the Libertarian Party in the coming election should be extremely careful to avoid pitfalls. And he made a few in that article. I will only name two to keep this as short as possible.

He says on page 15 ". . . making it totally worthless as a tax shelter." He was speaking of the Equity Trust. He had better write another article and define his terms. A sample case—If a husband and wife without a trust had $30,000 in taxable income and paid according to the rates published in the 1975 edition of the IRS code they would have paid $7,880 in taxes. If the same couple had a trust and split income between themselves ($20,000) and the trust ($10,000) they would

(continued on page 9)

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EDITORIAL

LIBERTARIAN REALPOLITIK

The Libertarian Party is currently running candidates for President, Vice President, the Senate and House, and various state offices. Party members, friends, and sympathizers are being asked to contribute large sums of money, volunteer to circulate petitions, and devote time in other ways to working for these candidates. Although the LP has grown rapidly in the four years since its founding, its candidates to date have achieved only miniscule vote totals, generally in the vicinity of one percent (and at a cost of several dollars per vote). This lack of electoral support has occurred despite its attractive candidates and the obvious openings created by the Watergate and CIA/FBI revelations, the failure of Great Society programs, a growing tax revolt, the emergence of decriminalization and deregulation as live issues, etc.—and despite media attention considerably greater than the LP's actual size would warrant.

Obviously, something has prevented libertarian candidates from getting *votes* (even where they appear on the ballot), despite a climate of opinion which appears inherently favorable. It would appear that libertarian candidates simply are not being taken *seriously* by the electorate. What we have, in other words, is a failure of communications—of marketing libertarian ideas. To understand this failure, we must examine the nature of most libertarian campaigns, to date.

Ostensibly, the purpose of a political campaign is to elect the candidate to office. Yet most libertarian political campaigns have been run principally to "educate the voters" in libertarian political philosophy. Thus, much time is spent on detailed expositions of the Party's theoretical position on every conceivable issue, showing how this seemingly diverse collection of views is really a consistent philosophical whole. Some candidates have taken pride in their ability to shock the voters with their consistent radicalism and are pleased when a presentation to 500 people results in five or six potential new converts (apparently ignoring the possibility that of the other 495, 295 may be bored and the other 200 permanently alienated). The net effect of such activity is indeed to increase awareness of the libertarian philosophy—and to guarantee the hostility or indifference of the vast majority of voters.

To a certain extent this pernicious effect has been masked by the interest shown in LP candidates by media people. Many candidates report spending long hours with reporters, explicating the libertarian classics. Reporters are fascinated with such ideas as private roads, competing private defense agencies, individual secession, completely voluntary financing of government, etc. As a result, press conferences tend to focus on questions of the "How would the blind be cared for in a libertarian society?" variety. The candidate glibly answers that private charity will solve all such problems once the State is abolished. The reporter is pleased for having obtained sensationalist copy ("Candidate favors welfare cutoff"), but the audience, though "educated," is largely frightened and turned off by what appears to be a naive, utopian, and irresponsible position.

Libertarian politicians are thus faced with a basic choice. They must decide whether their first purpose is to educate people in political philosophy (in which case they can forget about electing candidates and accept the likelihood of alienating a majority of the populace) *or* to elect candidates who can get on with the task of rolling back the State (leaving to non-party vehicles the task of teaching political philosophy). If the latter alternative is selected, as we would urge, then a fundamental change in marketing policy is required.

If a campaign's purpose is to elect candidates, then the focus of its marketing must be on what the specific candidate can and will do during the term of office for which he/she is elected. What is required, in other words, is a specific *program* which can be seen as potentially realizable during the time period in question. Such a program would be evolutionary in nature, taking into account today's political realities (e.g., the existence of foreign threats, of millions of people dependent on welfare and Social Security, etc.). It would purposely begin with proposals by which a large majority would benefit while only a small vested interest would lose. Each element of such a program would be a step in the direction of less government control and greater personal freedom, and each could be justified in terms of appropriate libertarian principles. But any prolonged discussion of the ultimate libertarian utopia would be scrupulously avoided, as irrelevant to a specific campaign for a specific office.

Such a program for candidates to national office in 1976 might include such elements as abolishing the most vulnerable regulatory agencies (CAB, ICC, OSHA), deregulating energy pricing, repealing the postal monopoly, repealing *Federal* laws against marijuana and pornography, enactment of a Constitutional amendment prohibiting deficit spending, and setting up a ten-year plan to convert from Social Security to private retirement programs. Each of these proposals is potentially saleable to a majority of Americans, if presented in an appropriate context and using nonthreatening rhetoric. Notice that the list does *not* include abolishing income taxes or welfare or the FDA—ideas whose time has not yet come, since people today cannot see how to do without these institutions. Until viable replacements can be researched, developed, and popularized, people's needs and fears *must* be taken seriously if a candidate is serious about being elected.

Those who will attack this approach as compromising or unprincipled should keep several points in mind. (1) The purpose of a political party is to elect people to office. Those libertarians who find this unpalatable should leave politics to the politicians and start or support educational libertarian groups. (2) It is not a compromise to face the necessity for evolutionary change and, therefore, to implement a long-term plan a step at a time. (3) Libertarians are under no obligation to advertise their ultimate goals every time they make a public statement, so long as they don't misrepresent or conceal their principles. In short, we must learn the art of strategy and tactics, and develop marketing approaches at least as sophisticated as those used to introduce a new breakfast cereal.

The stakes are very high. What we are talking about is the survival of liberty in America, and perhaps the world. If libertarian politics is to play a part in this struggle, those involved must develop programs that can actually get candidates elected. It will be a tragedy if the impressive talent now commanded by the Libertarian Party alienates voters who could accept the first steps of a libertarian program to free the country.

—ROBERT POOLE, JR.

[Note: This basic approach was suggested over a year ago to the Australian Workers (libertarian) Party by John W. A. Curvers of Woollahra, New South Wales. Libertarians owe Mr. Curvers an immense debt of gratitude.]

LETTERS

(continued from page 6)

have paid a total of $6,542 in taxes. Again, if Mr. Bergland thinks a saving of $1,338 is totally worthless, we should have him define his terms.

In the next paragraph on page 15 he states ". . . the IRS, which takes the position that the equity trust device is invalid." This is incorrect. The IRS takes the position that an *incorrectly set up and operated trust* is invalid. It is the same as saying that an automobile dealer who sold you a new Cad without an engine did not sell you a valid automobile. That was the case from which the 1975 IRS rulings arose. The trust or trusts had errors of a material nature so naturally they are considered invalid.

In my opinion a candidate who tells half truths that mislead is an invalid vice presidential prospect.

Floyd Wright
Grass Valley, CA

Mr. Bergland replies: I really wonder if Mr. Wright checked my article over thoroughly before he wrote his letter. If he had, he would have noted that I did make the same point as the first one in his letter, i.e., trusts can be used to "split" income between members of the family and the trust and thereby reduce the overall tax bite. But, do not forget, *the trust is a taxpayer also*, not a place where you can hide income from the tax collector altogether. Mr. Wright's example seems, by implication, to overlook this point—but perhaps not. Who am I to nitpick? (It is also worth noting that creation of a trust and its administration involve considerable expense. TANSTAAFL.)

As to Mr. Wright's second point, my comments were directed at the so-called "equity trusts" being sold by their promoters as fantastically successful tax avoidance devices. It was this the IRS attacked and did indeed make "totally worthless as a tax shelter." If Mr. Wright doesn't think so, let him buy one of the "equity trust" packages from those who are still peddling them and then see what the ultimate tax consequences are. Mr. Wright apparently could not ascertain from the context of my fairly brief discussion on "equity trusts" that I was *not* saying the IRS rulings made *all* trusts invalid. I think it was clear that the discussion was limited to the "equity trust" packages which were the subject of the IRS rulings. Anyone who cares to do so can reread the article and judge for themselves.

Finally, I am considerably affronted by Mr. Wright's accusations regarding misleading half-truths. In response, I suggest that Wright: (1) is deficient in reading comprehension, (2) is ignorant of the admittedly complex tax laws, (3) was looking for an opportunity to take a cheap shot at a Libertarian Party candidate, or (4) all of the above.

I believe the 1976 Libertarian Party Presidential Campaign will be recognized as one of the most significant events in the development of the Libertarian Movement regardless of Mr. Wright's opinions; *and* I am willing to offer my services on the market as a tax counselor in competition with Mr. Wright anytime so that the purchasers of our respective services can decide which one of us knows his business better.—D.P.B.

LYSANDER SPOONER REVISITED

May I offer the following comments on Professor Fred Miller's "Lysander and Limited Government" appearing in REASON, May 1976?

Spooner has left us a great legacy of political writings and one may find defense of limited-constitutional government in more than just his work *No Treason No. VI.* However one must keep in mind that Spooner has many great distinctions in the history of political thought. "For one thing, he was undoubtedly the only constitutional lawyer in history to evolve into an individualist anarchist; for another, he became steadily and inexorably more radical as he grew older." Lysander Spooner was the only one of all the host of Lockean natural rights theorists to push the theory to its logical and infinitely radical conclusion: individualist anarchism.

In the final decade of his life, Spooner WAS an individualist anarchist. Consider his 1882 pamphlet regarding *Natural Law, or the Science of Justice,* which was subtitled: *A Treatise on Natural Law, Natural Justice, Natural Rights, Natural Liberty, and Natural Society; Showing that all Legislation Whatsoever is an Absurdity, a Usurpation, and a Crime.* Here he argued that no man can rightfully be required to join or support an association whose protection he does not desire.

It is my position that Spooner ultimately came to believe that even a voluntary government (so called—because it would rely only on voluntary contributions) must, of necessity, violate men's rights. Even if one advocates voluntary financing of government, as Mr. Miller does, there still exists an aggressive and criminal feature of all governments: namely, the

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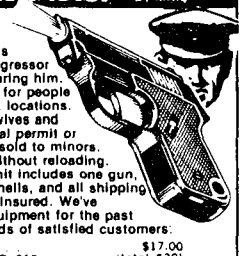

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establishment of a compulsory monopoly of defense services (police, courts, and law code) over some given geographical area. Thus, individual property owners who prefer to subscribe to another defense company within that area are not allowed to do so.

The recognition of this fact is why Spooner became a convert to libertarian anarchism.

Carl Watner
Baltimore, MD

SPOONER AS ANARCHIST

Fred Miller Jr.'s article in the May issue is a very unscholarly attempt to link one of the greatest libertarians of all time, Lysander Spooner, to the so-called limited government viewpoint. As a student of radical anarchistic libertarianism, I should like to make the following brief rebuttal.

Mr. Miller admits that he believes that only one government may exist in a given geographical area. In fact, he says that the government may forcibly insist on a monopoly of police and judicial functions. Supposedly, he does reject taxation and inflation as being theft. However, he would not allow any of us the option of contracting for our own defense, unless it is with the State. The latter is from his point of view legitimate. I wonder if he also believes in the Constitution and the legislative process? Spooner, as well as the other individualist anarchists, neither believed in the latter or the former, as can be shown by the very passages that Mr. Miller quotes in support of his contention that Spooner was not an anarchist.

Spooner did say that governments must rely solely on voluntary support. By that statement, taken within the context of everything else he wrote, he meant that not only must they be voluntarily financed, but they must also rest on the *individual* consent of the governed. A consent, by the way, that may rightfully be withdrawn at any point in time. Also, he said that it must leave the rest of us in peace to pursue our own affairs and contracts. Contracts in harmony with the natural law, can never rightfully be violated. That such contracts may include competing defense functions, disproving any sanction of the State or monopoly, he said in many places in the *No Treason* works, as well as in his *Letter to Grover Cleveland.*

To advocate *individual* consent of the governed is to advocate anarchy as envisioned not only by Lysander Spooner, but also Benjamin Tucker and most of the other individualist anarchists, as well as the modern day anarcho-capitalists. Indeed, it is our viewpoint alone that says that no so-called governments may rightfully do anything that any individual acting alone may not also rightfully do. Also, we say that every individual is solely responsible for his or her acts, for good and bad. Therefore, no one can evade the same by hiding behind any organization or collective. If individuals wish to form associations and call them governments, they may do so if they leave the rest of us alone and if such associations are solely based on the voluntary principle. This is all the anarchist asks.

I would suggest that Mr. Miller dig deeper. Let him read Dr. James J. Martin's *Men Against The State.* Also, he might read Spooner's *Letter to Grover Cleveland* for a good beginning. After a little serious reading, he might be capable of writing a responsible and scholarly article on the subject.

Michael A. Nash
Memphis, TN

Prof. Miller replies: I am gratified to discover that my reading of *No Treason #6* is in substantial agreement with that of Mr. Watner, who has himself written a useful study of Spooner. My aim was to provide a full exegesis of this one crucially important essay, which, it seemed to me, had been misrepresented by overenthusiastic readers. I believe that each of Spooner's works must be considered in its own right before broad claims can be established as to his intellectual development, so that I can only say that I am not yet convinced that the doctrines advanced in *No Treason No. 6* and *Natural Law are* fundamentally at variance.

I do not know what standards of scholarship underlie Mr. Nash's characterization of my article as "unscholarly." He ascribes to me vague doctrines which I do not advance in the paper, e.g., "that only one government may exist in a given geographical area," and misstates doctrines which I do advance, e.g., "that the government may forcibly insist on a monopoly of police and judicial functions," omitting the crucial words, "over *its* citizens." It was also instructive (if disconcerting) to learn that I "would not allow any of us the option of contracting for our own defense, unless it is with the State." But where do I say this in my paper?

Both Nash's and Watner's letters, however, suggest a possible way to clarify the issue that divides us. "Limited government" can refer to either of two things: (1) an association which will not permit any member of a specified group to obtain protection from any other association, or (2) an association which insists that grievances against its clients be brought against them within its own judicial system. I do not think that Spooner (or any consistent libertarian) would advocate (1), since that would violate the right of secession. My point, however, was that Spooner was implicitly committed to (2), and in this his version of libertarianism seems to me preferable to Rothbard's anarcho-capitalist scheme, in which "protection agencies" do not have a monopoly on the sanctioning of enforcement of laws over their own citizens.

Fred D. Miller, Jr.
University of Wisconsin
Madison, WI

HUMANIZING LIBERTARIANISM

A reading of the Letters in the April 1976 issue makes one thing clear: libertarianism is growing (in numbers and sophistication) to the point where there now seem to be two factions—the economics-only libertarians, and those also concerned with human beings and their problems.

For instance, several readers criticize you for accepting an ad that says "You can profit from the coming Mideast war." This can be simplified as: "You can profit from war." You apologize for this ad by saying "the

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REASON'S COMMENT OF THE MONTH

The letter below, by subscriber Murray Sabrin, appeared in the May 19, 1976 issue of the *New York Times:*

TO STOP OUR "LEGAL COUNTERFEITERS"

Within one week The Times *published two articles on the "creation" of money. The first (May 5) dealt with the Federal Reserve's open market operations, which Edwin L. Dale, Jr. described as the Government's "printing press," i.e., "legalized counterfeiting." The second news article (May 10) described an "illegal" counterfeiting operation in the Bronx.*

The question that should be raised is: Why is the Bronx operation illegal while the Federal Reserve's "printing press" is given legal status? Moreover, more often than not the Fed is criticized for not creating enough money for the economy. Consequently, should not the printing press operators in the Bronx be commended for their heroic efforts to increase the nation's money supply?

*The truth of the matter, as Mr. Dale indicated, is that the monetary authorities do not know how much money to create for a "healthy economy." Yet, economic theory does provide us with an answer. According to Professor Hayek (*Prices and Production *[1933]) and other economists of the "Austrian" school, the creation of money is inflation, which in time not only causes prices to rise but also is responsible for the business cycle of boom and bust.*

Furthermore, if it is illegal for private citizens to create money via the printing press, then, too, it should be illegal for the Federal Reserve—an arm of the Government—to create money via the banking system. If we have learned anything *from the Watergate caper, it is that* no one *is above the law. If it is illegal to create money, then it too* must *be illegal for Mr. Burns and his colleagues at the Federal Reserve to create money by buying Treasury bills or other Government securities in the open market.*

Consequently, the Federal Reserve's "legal counterfeiting" must cease at once if we are to eliminate inflation from our economy. Also, we must return to the classic gold standard in order to end the power of the Government in the economy's monetary affairs. By re-adopting the gold standard the value of money will be determined, like other commodities in the marketplace, by supply and demand. Since productivity will increase while the money (i.e., gold) supply will remain fairly stable, we will achieve a most welcome phenomenon: slowly falling prices *for producers and consumers.*

Murray Sabrin
New York, NY

REASON subscribers are encouraged to write letters to the editor of their favorite newspaper, magazine, or journal, and to submit replies to TV and radio editorials, presenting libertarian views on topics of current interest. Each month the editors of REASON select the most notable published letter or broadcasted reply for republication in this space, and honor the writer by a six-month extension of his or her REASON subscription. Send copies of your published letters or broadcasted replies to Reason Comment of the Month, Box 40105, Santa Barbara, CA 93103.

point of the book is to make money—not from war, but from . . . " But the reader criticism was of the actual headline in the ad, not of the book it advertised.

Your answer is cutesy and beside the point.

You say "The point of the book is to make money . . . from the predictable distortions in the economy caused by . . . war" (this simplification clarifies the thought; it does not distort). Reader Caldwell says, ". . . to accept an ad that pushes war profiteering is to push war yourself. . . " I agree. For if you profit (or profiteer) from war, it is only reasonable to assume you'll want to maintain the condition necessary to your profit-making: war.

You can't have it both ways.

There are other problems.

Harry D. Schultz refers to "ever more liberal (sorry) social security handouts." As a believer in libertarianism, I can and do support the idea of less taxes and less government interference. But: you must address yourself to problems that deal with the essence of liberty (your final goal, as suggested clearly by your name: libertarianism).

For example: Without social security, how do old folks with inadequate financial means get their necessities: adequate food, shelter, clothing, and medical care (not to mention a few amenities that make 'liberty' worthwhile)? Certainly, this is hard to answer within the structure of libertarianism. But that's no reason to avoid dealing with this kind of difficult human problem. Is it possible you simply don't care? Does libertarianism have to be totally without compassion? And what if *you* don't make it? How will *you* handle your old age?

Is profit the whole ball of wax in your philosophy?

I find meanness in the spirit of libertarianism, and this troubles me, because there is much in your philosophy and in your values that I do support. Can we not warm up or

(continued on page 48)

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TRENDS

TRUCKING FREEDOM BENEFITS PUBLIC

The regulated trucking industry, fearing loss of its ICC-enforced cartel privileges, is raising the specter of "chaos" and "cut-throat competition" as the likely consequence of deregulation. Yet the evidence from overseas completely refutes such a charge, according to a new study by Thomas Gale Moore, professor of economics at Stanford University and senior fellow at the Hoover Institution.

Prof. Moore examined and compared the rates, service levels, and efficiency of trucking in the United States, West Germany, Britain, Belgium, the Netherlands, and Sweden. The first two countries have strict trucking regulation, while the latter four are more or less unregulated. The results were striking. In the United States and West Germany trucking rates are 40 to 50 percent higher than they are in the countries without regulation. Moreover, regulation does *not* produce better service to small communities; in fact, judging from customer complaints, "regulation has reduced the quality of service provided by the trucking industry, especially to smaller cities and small towns." Moore's data on Britain are especially interesting, since that country had regulated trucking until 1968, but was able to abolish it. Since then, rates have declined, but there has been no noticeable effect on company profits, and the quality of service has remained about the same.

Moore thinks that deregulation of trucking in this country would produce a sharp reduction in rates. "Because rates here are held at much higher levels than they were in Great Britain, the reduction in U.S. rates would probably be sharper," he writes. Thus, the benefits to shippers, and to U.S. consumers generally, would be greater than those in Britain.

SOURCE:

- *Trucking Regulation: Lessons from Europe,* Thomas Gale Moore, American Enterprise Institute, 1976 (Available from AEI at 1150 17th St., NW, Washington, DC 20036).

ZONING ROLLBACKS

Recent months have seen several successful overthrows of local laws controlling private property rights. In Nebraska the Board of Supervisors of Burt County voted 5-0 to repeal that county's 13-month old zoning ordinance. Angry citizens protesting the imposition of land use controls formed the Preservation of American Private Property Association of Burt County, and obtained the signatures of 95 percent of the population in opposition to the ordinance. This left the Supervisors with little choice but to repeal it. The Burt County group was assisted in their fight by Ray Buker of the Ogle County, Illinois Taxpayers Association, a 14-year-old group which has successfully resisted land use control in their own county.

In other states the action has been in the courts. Last summer the Pennsylvania Supreme Court upheld a lower court decision that found the town of Willistown's zoning ordinance unconstitutional because it provided so little land for multiple-unit construction. A developer's suit resulted in the lower court's decision to overturn the ordinance, followed by the Supreme Court's concurrence. In New Jersey the state Supreme Court ruled last year that all the zoning regulations of suburban Mount Laurel were unconstitutional, because they failed to provide for a range of density levels and building types, including multiple-unit structures. The Mount Laurel decision became the basis for a lower-court ruling in May of this year that Middlesex County must revise its zoning ordinance to provide for more low and moderate-income housing units. Although the basis for some of these decisions may leave something to be desired, the breach in the inviolability of zoning is a welcome development.

SOURCES:

- "Nebraska County Repeals Zoning," *AREA Bulletin,* May 1976, p. 3.
- "Zoning Laws Being Challenged," Bernard Cohen, AP (New York), May 23, 1976.

HEALTH FREEDOM PROGRESS

The right of individuals to make their own decisions regarding health care issues has received new protection in several recent developments. In April President Ford signed a bill which abolishes the Food and Drug Administration's controls over vitamin and mineral supplement formulations. For the past year the FDA has been operating under new rules which prohibited any combination product in which each ingredient varied by more than 50 percent from the agency's definition of the "recommended daily allowance." The law also empowered the FDA to seize vitamin products whose manufacturers could not prove their health claims. The newly signed law abolishes the controls on product formulations, firmly establishing vitamins and minerals as foods, not drugs. It also puts the burden of proof regarding health claims back on the FDA, rather than on the producers. The new law is expected to lead to increased competition and lower prices in the vitamin business.

Additional freedom of choice would be possible if legislation introduced by Rep. Steve Symms passes Congress. His bill, H.R. 12573, would repeal the "effectiveness" clauses from the 1962 amendments to the Food, Drug, and Cosmetic Act. These are the amendments which have created the "drug lag" in the United States—the withholding of many potentially life-saving drugs from the market while drug companies comply with costly, bureaucratic testing and documentation requirements (see Trends, March 1976). Dr. Louis Lasagna, head of the Department of Pharmacology and Toxicology at the University of Rochester, recently calculated that two cardiovascular drugs available in Canada but still banned in the United States could be saving 10,000 lives a year in this country if they were available here. Rep. Symms points out that 17,000 Americans died of tuberculosis between 1968 and 1971, while Europeans were being cured by a powerful new drug, rifampin, which had not yet cleared the FDA's approval cycle.

Finally, residents of Alaska recently became the first Americans to have legal access to Laetrile, thanks to passage of H.B. 881, which calls for "freedom of choice for doctor and patient, and their right to mutually agree on medical treatment without interference." The Alaska legislature also passed a resolution calling on the FDA to "stimulate more aggressively research on the effectiveness of Laetrile in cancer therapy." Sen. Hubert Humphrey has seconded the motion by requesting an FDA hearing on Laetrile, "in light of continued favorable comment on its effectiveness by users."

SOURCES:

- "Proxmire Liberates Vitamins," *Business*

Week, Mar. 29, 1976, p. 36.
- "Food Supplements Measure Becomes Law," *NHF Newsletter,* May 1976.
- "Symms to Give Medical Freedom of Choice Back to Consumers," press release, May 4, 1976.
- "AEI Panelists Examine Federal Drug Regulations," *AEI Memorandum,* Winter-Spring 1976, p. 5.
- "Alaska First State to Lift Ban on Use of Laetrile," *NHF Newsletter,* June 1976.

NEW COUNTRY EMERGES

Although unreported by U.S. news media, a new nation declared its independence last December 27: the Na-Griamel Federation. The Federation comprises the northern third of the New Hebrides, a well-known tax haven in the South Pacific. The new government has announced that the tax haven status of the area will not only continue, but be expanded to include the abolition of import and export duties, the only form of taxation previously in existence. The government, headed by President Jimmy Moly Stevens, has extended a welcome to foreign investors and settlers. A number of native-owned land trusts are planning to offer land on a 99-year basis, in hopes of attracting industry to the new country.

Na-Griamel has printed passports and has ordered an initial run of gold and silver coins, but its government has not yet obtained diplomatic recognition from the world community. It sent a delegation to the United Nations in January to present its credentials; the delegates were invited back for the next General Assembly session, which begins in September. The Federation's constitution calls for an extremely limited central government, with no power to tax, and complete separation between government and the economy. It also includes a strong bill of rights.

Na-Griamel presents very interesting possibilities, and REASON will continue to report on developments there.

SOURCE:
- "Na-Griamel Seeks Recognition," *The Fiji Times,* Jan. 15, 1976.

ADVERTISING PROGRESS

In a major victory for the free market, the U.S. Supreme Court has ruled that purely commercial speech (as in advertising) is entitled to First Amendment protection. The ruling struck down as unconstitutional laws in Virginia and 33 other states that prohibited the advertising of prescription drug prices. In a 7 to 1 ruling, the Court held that such laws violate the First Amendment right of consumers to a "free flow of information." The only dissenter was Justice William Rehnquist, who argued that the decision "elevates commercial intercourse between a seller hawking his wares and a buyer seeking to strike a bargain to the same plane as has been previously reserved for the free marketplace of ideas." (That, of course, is just the point!—Ed.)

The Court's ruling was so sweeping that one of the attorneys who had filed the Virginia case predicted that it would also lead to invalidation of state laws prohibiting price advertising of eyeglasses and funeral services. Unfortunately, Justice Blackmun, who wrote the majority opinion, noted in a footnote that the ruling would not necessarily extend so far as to doctors and lawyers.

Lawyers in California, meanwhile, are taking small steps of their own in the direction of advertising their services. The State Bar Board of Governors in May approved a liberalization of rules governing lawyer advertising. It expands the type of information that can be listed in directories (including the Yellow Pages) to include areas of specialization and certain basic information about fees. But the policy still excludes radio, television, and newspaper display ads. State Sen. David A. Roberti has meanwhile introduced legislation removing legal prohibitions on all lawyer advertising. In addition, the San Diego Bar Association has set up an experimental Lawyer Referral Service, which itself is advertising via newspapers and billboards. The service charges $10 for an initial consultation to help people decide what kind of legal assistance they need. Some 550 of the county bar's 2,350 members are participating in the experiment.

SOURCES:
- "High Court Voids Ban on Prices in Drug Ads," *Los Angeles Times,* May 25, 1976.
- "State Bar OK's Plan to Broaden Ads by Lawyers," *Ibid.,* May 15, 1976.
- "San Diego Residents Benefiting from Advertising by Attorneys," UPI (San Diego), June 1, 1976.

MILESTONES

- *Cities.* A degree of fiscal sanity is at last being forced upon the New York City government by its ongoing fiscal crisis. The latest evidence is the June decision by the City University of New York to charge its students tuition, rather than soaking the city taxpayers for this expense. Although the tuition ($750 for freshmen and sophomores, $900 for juniors and seniors) will cover only a portion of the costs, it's a giant step in the right direction, i.e., of users rather than all taxpayers paying for the services they receive from government. (Source: "Governors of City University in N.Y. Impose Tuition," AP (New York), June 2, 1976.)

- *Health Care.* The liberal consensus on the need for massive new government health care programs (such as compulsory National Health Insurance) continues to disintegrate. The latest defector is the editor of *Science,* Philip H. Abelson. In a recent editorial Abelson pointed out that the massive increases in health care expenditures over the past two decades have failed to increase the life expectancy of Americans, and that the most important improvements in health and longevity could be brought about by "good nutrition, weight control, abstention from excessive drinking of alcohol and from cigarettes, and getting enough exercise and sleep." That's not much of a rationale for multi-billion dollar Federal programs, but it's a refreshing acknowledgement of reality. (Source: "Cost-Effective Health Care," Philip H. Abelson, *Science,* May 14, 1976.)

- *Mail.* "Use commercial small-parcel carriers as a cheaper alternative to priority mail and U.S. Postal Service-insured parcels." So reads one of 10 cost-saving suggestions from the Federal government's own General Services Administration, in a bulletin circulated to Federal agencies. The bulletin pointed out that since 1972, the government's mailing costs have gone up by 72 percent. "The magnitude and dollar amount of these increases make it imperative for all agencies to examine their mail practices and effect economies," the GSA recommended. (Source: "U.S. Urging Agencies to Use Private Mail Firms," AP (Washington), May 22, 1976.)

- *Deregulation.* Two all-cargo airline chairmen have come out in favor of deregulation of cargo carriers, as proposed by the CAB in April. In testimony before the House Public Works and Transportation Committee, the chairmen of Federal Express and Flying Tiger Line supported open competition and removal of CAB restrictions on equipment, routes, and operating practices. The chairman of another cargo line, Trans International Airlines, also testified in favor of regulatory reform, but not complete deregulation. (Source: "Two Cargo Carriers Back Deregulation," *Aviation Week,* May 3, 1976, p. 27.)

OBSERVATIONS FROM THE FOURTH ESTATE:

An Interview with Nicholas von Hoffman

Toward the end of January 1976, the California Libertarian Party held its convention near San Francisco. Although a number of people presented their ideas in talks throughout the three days, the speaker at the main event was Nicholas von Hoffman, syndicated columnist, invited because he is widely reputed to possess political savvy and has on occasion spoken favorably of libertarianism in his columns. While at the convention for this speech, von Hoffman graciously squeezed in time to be interviewed by REASON editors Robert Poole and Tibor Machan. Although the discussion was not confined to politics, REASON readers will no doubt find von Hoffman's comments on the political prospects of libertarianism interesting. Obviously the interview could have been turned into a lengthy debate, but that would have defeated its purpose and it would have been misguided—von Hoffman does not pretend to be a political and legal theorist. It is sufficient for us to gain an understanding of his perception of the various elements of libertarianism, the party claiming to stand for it, and some of the problem areas the movement, political and intellectual, faces today.

REASON editors do not necessarily believe that von Hoffman and other observers have a better understanding of our problems than do libertarian theorists. If that were so REASON would not find libertarianism worth very much. We do think it is valuable, however, to learn what other reasonable individuals think of the point of view and activities we find significant.

REASON: First, I think our readers would like to know, how did you first hear of libertarianism as a movement or as a set of ideas?

VON HOFFMAN: I'm trying to think. Well, of course, the set of ideas predates the Libertarian Party by more than a century. As far as the Party is concerned, my recollection is that I may have heard of it first at the Houston YAF Convention, in 1973, I believe.

REASON: You wrote some columns about Murray Rothbard's book *For a New Liberty.* Was that the first organized presentation in writing of libertarian ideas—modern libertarian ideas—that you'd come across?

VON HOFFMAN: It may well have been. I think I was aware of Murray before I was aware of the Libertarian Party.

REASON: Do you know Karl Hess and his writings and his libertarian ideas?

VON HOFFMAN: Yes. I've read a good deal of what Karl's written. I don't know Karl well but I've known him six or seven years—something like that.

REASON: How would you describe your own political, economic, social views?

VON HOFFMAN: Well, Oh God, I don't know—I'm a ragamuffin, a mongrel. I would be hard put to categorize my views in a party sense.

REASON: But, for example, would you consider yourself close to being any form of anarchist, or some form of social democrat? You've worked earlier in your career with Saul Alinsky, who heads a left decentralist movement. Are those still the kinds of ideas . . .

VON HOFFMAN: Oh yes. Right. You know, Saul is a very nondoctrinaire man, and I also suffer from that failing. Saul never made any attempts at internal consistency—I followed that brilliant intellectual tradition [laughter].

REASON: It was evident in your exchanges with Kilpatrick on Sixty Minutes that you were primarily the maverick type of critic. Is that basically your style? You're not interested in developing some sort of a broader

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framework?

VON HOFFMAN: Well, I'm not. I am simply not able to be a comprehensive, synthetic theoretician. I might be interested in it, but it's way past my . . .

REASON: So you would basically be a critic of obvious abuses in our society on an eclectic basis?

VON HOFFMAN: Yes. I think eclectic is a wonderful word.

REASON: What are the kinds of things that you most like to criticize, that you see as the largest evils and things to attack?

VON HOFFMAN: Well, of course there are a great many things that are very fashionable at one moment or another—I suppose you might say the normal quantum of bunk flowing through society—which I guess one is criticizing all the time. But I guess, along with everybody else, I get more interested in one thing in one period and something else in another.

REASON: I recently read a discussion of Ralph Nader, a critical one, by an editor of *The New Republic,* and you were mentioned as someone who somewhat blindly at times supports Ralph Nader. Do you take your customary criticism as far as to investigate some of Nader's internal operations, how strictly scholarly his investigations are, how consistent he is?

VON HOFFMAN: Well, I'm aware of Ralph's shortcomings. Part of the question is whether you use the same set of standards when you are judging a very poor outfit with few financial resources and things like that as when you're judging IBM or the power company or the like. I don't, and one of the reasons that I don't—you see, here goes my inconsistency—is that I'm very interested in a society that has an internal tension of power balance. About the time that Ralph gets into a power position equivalent to those people that he is going after, then I'll apply the same standards.

REASON: Nader has criticized the regulatory agencies of the Federal government over and over again. And, interestingly enough, Milton Friedman does the same thing. Yet they come to diametrically opposed conclusions as to what to do about that. Basically Friedman wants to deregulate, and Nader wants to improve the regulatory agencies, give some of them more power and have more formidable, maybe virtuous, people to lead them. Do you think that Nader's idea is better than Friedman's?

VON HOFFMAN: Well, I think you're talking about Nader at an earlier stage. He's not nearly as enthusiastic as he was five years ago about regulatory agencies. I think you've got two problems. One is that you've just got to try to make them as good as you can, knowing full well it's not going to be very good. At the same time, Ralph has developed, particularly over the last five years, proposals designed to do away with the *need* for regulation, which again involves the notion of countervailing power. That's the reason that he has been campaigning for financing for consumer cooperatives equal to that afforded producer cooperatives. That *kind* of thing. In other words, he does say that one of the ways around the regulatory dilemma, and he's quite aware of the dilemma, is to try to erect institutions of sufficient countervailing power so that there is a kind of automatic policing mechanism that's not built in law but in some kind of dynamic mechanics.

REASON: This notion of countervailing power is one of the things that Saul Alinsky thought was very important and it's something that libertarians often seem to neglect in their analysis and theories. Do you have any comments on this, or do you see this as a shortcoming of the libertarian analysis to date?

VON HOFFMAN: Well, yes. I would say that there probably is a tendency among at least some libertarians, because of their own intense interest in individualism, to project the existence of a society that is far more individualistic and non-power-determined than the society actually is.

REASON: In a way they're like the Marxists who project their communist state to 2,000 years from now and then use its values to criticize our current society. So in a way libertarians are not contextual enough.

VON HOFFMAN: Exactly. A good point. When libertarians, and others as well, say we must deregulate this and we must stop that kind of government intervention, etc., etc., and then just leave it there, I always throw up my hands, because what that means is that such checks as there are on a General Motors or a DuPont now vanish entirely. And we have the absurd proposition that whether you look at yourself as a vendor of labor or a consumer of goods, you are going to have in a free market an equal sort of position vis-a-vis General Motors. Well this is absurd.

REASON: What the libertarians try to say in the same breath, I think, is that at the same time as they would deregulate they would remove all of the other bad laws. Now this is quite unrealistic in terms of an actual achievement, but the idea is that you deregulate and you *desubsidize* at the same time—you take away all kinds of protective laws and foreign protective measures for companies in the United States.

VON HOFFMAN: There's something you're still leaving, and this is something that I seldom hear libertarians bring up. You're still leaving General Motors with its greatest government help—namely, incorporation. Incorporation is a special protection, and it also makes the rise of regulation inevitable. Because with incorporation you are saying that it is possible for a certain group of people to pool their capital and go into any business or every business in the world. Do anything they want. And not be civilly liable for any acts they commit or in fact any debts they contract. So that what incorporation does is put that group of capitalists completely outside the law as it pertains to everybody else in the society. It is an *enormous* grant of privilege. Furthermore, this is a grant that is given this special group of capitalists in perpetuity—I mean it's never looked at again—to do anything.

It is such a grant of privilege that until it is rescinded I myself would never come out against regulation.

REASON: Let me give you the following objection that I sometimes get when I question the legitimacy, not the legal legitimacy but the moral legitimacy, of corporations: But look, how would it be possible to undertake some of those massive projects that corporations undertake if it were not for the limited liability—that is, massive projects that have enormous public benefit, utility companies and that kind of thing?

VON HOFFMAN: Well, look, you don't have to go as far as completely eliminating incorporation from the statute books—that is you can't—because the two go together. Regulation and incorporation go hand in hand, but one absolutely begets the other. So you can say—as a matter of fact it was very common in the early 19th century and the late 18th century—you can say: yes indeed, we will confer this privilege on you, but for a limited period of time and for a specific activity. Renewable—on what we consider good behavior, which is defined by current social policy. When the persona ficta, as they call it, was originally conceived, it was never thought that this privilege would be conferred upon people to go do *anything.*

REASON: Would you take the same stance with respect to the freedom of the press? After all, the *Washington Post* has a monopolistic position—the same company owns *Newsweek,* the *Washington Post,* several radio and television stations. So should the FCC follow through on various conservative, neoconservative proposals about controlling news—must you give equal space to the conservatives in the Op Ed section of the *Washington Post*?

VON HOFFMAN: I think there are two problems here. One, the one that I'm *very* concerned about, is the concentration of media ownership. From my point of view a corporation like the *Washington Post* is *highly* vulnerable to criticism. I do not think that one corporation should own all those television stations *and* the newspaper *and* the magazine *and* the whatever. That is highly questionable, particularly in television, where there really are a limited number of usable channels, where they have to be allocated by some kind of public authority. It is very, very difficult to defend the present patterns of ownership. This is another place where I would be very strongly inclined to go in two directions at the same time. I certainly don't believe in any attempt to regulate content because, well, we have enough history of the idea of allocating conservative, liberal. Also, I find it repugnant intellectually because, and the media's already inclined enough to do this, we end up with this strange bipolar universe in which there is a "liberal and conservative view," and that's it. So that's intellectually repugnant. On the other hand, I would probably right now be very, very much in favor, with broadcasting licenses, of saying, you may only own one of them, and you may only own it for say ten years, and then you've had your bite at the apple.

REASON: Let me ask you a little about developments in your own field in journalism. Do you perceive, as I do, a rise in the influence of neo-

conservatives, the Irving Kristol type, the Daniel Bell type?

VON HOFFMAN: Well, certainly in the corporate board rooms their influence has increased mightily in the last 10 years. Nothing is worse than a cellar communist and this really is the end of the light-that-failed crowd, but my reaction to that bunch is that if they had such bad judgment as to join the Communist Party when they were young, I'm not inclined to be very interested in their . . .

REASON: They're terribly pompous though, and high falutin, and in a way they try to play both ends—they want to sort of go along with the economically free society, and they also want to emphasize the state as the paternalistic, benign protector of the people.

VON HOFFMAN: Well, I think they become, par excellence, the intellectual, apologistic mouthpieces of big corporate America.

REASON: Don't you think that they have more influence now than they had before and that, as say the liberals influenced public opinion in the Kennedy and Johnson era, the neoconservatives will in the next few decades?

VON HOFFMAN: I would hate to try to distinguish how those two groups really disagree with each other, but I don't think you'd find very large areas.

REASON: Well, I'll give you one example. The Kennedy and Johnson people tended to wish to take care of the poor, the economically downtrodden. The neoconservatives like Kristol and Bell are more concerned with a kind of an ethos of values, where the people *feel* good about their community, where they have a certain sense of being at *home* in America.

VON HOFFMAN: Yes, but if you push them to the wall they're going to be for food stamps too. And the rest is metaphysical bullshit.

REASON: I want to ask some more about the news media and public opinion. We're seeing polls indicating that more and more people today publicly identify themselves as conservative. We see the rise in popularity of people like Jerry Brown in California and Longley in Maine, who are saying governments should do less, we should have diminishing expectations. Yet I get the impression that most of today's major news media, like the *New York Times,* the *Washington Post,* and the television networks, are out of touch with this and are still thinking in terms of New Deal solutions to problems and the large benevolent role of the Federal government in most areas. Do you think the news media are out of touch with the way most Americans feel today?

VON HOFFMAN: Well, I think one way to define a news person is that he or she is always the last one in town to know. So that may well be the case. But I am very skeptical of a lot of this antigovernment rhetoric. It is important to bear in mind that while this may appear to us to be a new perception among Americans, it really is not, but is one of the characteristics of the American political culture. From the time of the founding of the republic there has been an intense dislike of the central governments. There is *nothing* new about it. It is a kind of an American cultural stance. I suspect it is perhaps unique among Western democracies.

REASON: It's certainly not European.

VON HOFFMAN: No. I think we probably are the only people in the world, and it is a cultural stance, and I think that is a very important thing to keep in mind. It sometimes can have immediate political implications, and sometimes it is more violently expressed than at other times, but it is *always* expressed. There is no point in American history where you couldn't hear it. They don't like them fellers in Washington. *They never did.*

REASON: This brings up the subject of the Libertarian Party and the kind of appeal that it has or might have. Do you see antigovernmentalism as a major factor that might enable the Libertarian Party to become a real force in America?

VON HOFFMAN: It is an apparent advantage, but it is only an apparent advantage, because in fact in third-party politics or dynamic creative politics—this is a lesson that I learned many years ago from Mr. Alinsky, who was a master at this thing—you in a sense are doing ju jitsu, you have to multiply your power by being clever. Beware of all issues, as political issues, where there is too much agreement. They're very, very poor issues. *If* you're doing creative politics. Now if you're just being another politician slouching toward the election booth it doesn't matter. But you will notice this is true with all kinds of things in this society—when you get a lot of people to agree, or a lot of people do agree . . .

REASON: It's probably a misunderstanding.

VON HOFFMAN: Well, it's not only a misunderstanding, but there's a great lassitude about doing anything about it and also a kind of assumed thing that there is nothing one *can* do about it. So that having a kind of a platform that is too popular almost guarantees nobody's going to pay any attention to you. You run the risk of being in the position of saying, well, I'm against taxes. Well now everybody's against taxes. I don't know anybody, or I've never met anyone, who was for taxes. But the very universal assent to that thing knocks you out of serious consideration.

REASON: Given that sort of general

It is important to bear in mind with this antigovernment rhetoric that the American people *never did* like them fellers in Washington.

background, then, what would you say are the types of issue that the Libertarian Party would have the greatest success in pushing?

VON HOFFMAN: Well, I think one of the things is that the libertarian values have to be translated for potential members, voters, and such, into terms of specific advantage. That is particularly important in the long tradition of American politics, which has been "vote for honest me." And you really don't care whether I'm honest and I don't really care whether I'm honest, but what I'm offering you is something that is going to help you specifically next Friday this way. This again is a cultural characteristic of the nation, a very old one and one that has worked, because in one sense this is the luckiest nation in the world—everything has always come together for us, you know it got all this labor, it got all this European capital, and it got all this stuff, and it all got here at the same time. And we have all these natural resources here. So you are dealing with a population with a relatively long memory of getting payoffs. Now that may be changing or will change in the next 20 or 30 years, but then I think the quality of American politics will undergo a change.

REASON: But then there's a conflict or tension that you're pointing out in the libertarian political movement, because I don't believe that the Libertarian Party can honestly say to a number of people that there will be quick payoffs if they buy its product. In fact, if for instance we advocate taking away the corporation's powers and maybe as a result in 25 years we have a less troublesome society in which powers are better matched in the market place and we don't have to have this big State, it also will mean that tomorrow some of the executives will have to stand trial and so forth. If we disguise this, however, then we are back in the same boat with the Republicans and the Democrats, and we have no standing as a unique . . .

VON HOFFMAN: Oh no. I'm not suggesting that you disguise it. I think that what I'm talking about more is "in addition to." Because, look, let's face it—I may not like General Motors. But *nobody* likes General Motors. Nobody liked General Motors long before they'd ever heard of Ralph Nader—it's part of the whole anti-bigness thing in the American culture. But people like me who are in many ways in a totally spoiled position—I'm paid to sit around and play with symbols and react, you know, affectively to all kinds of symbols—can work up a big froth over General Motors for far longer periods of time than most of our fellow countrymen, who can only work up very short froths over General Motors. Being part of the symbolic class, so to speak, the kind of argument that you were just giving appeals to me, but most people say, well, you know that's fine, but what are you going to do for me now? It's not that they'll react negatively to it, but they also have a certain kind of long-earth wisdom about grand ideas and grand things, no matter where they come from.

One of the things I find permanently infuriating about modern civilization is the damned politicians' always getting up and asking people to sacrifice for some larger goal.

REASON: Perhaps what you're after is that the Libertarian Party, even if it wants to stick to its principles, simply has to make the meaning of it more concrete.

VON HOFFMAN: That's what I'm talking about. The application has got to be one where poeple see an immediate kind of benefit for themselves, and that's important for another reason—almost in the spirit of what I would presume to be libertarianism: one of the things I find permanently infuriating about modern civilization, and it is as true in many ways here as it is in Russia or where have you, is the damned policiticans always getting up and asking people to sacrifice for some larger goal. This really just goes against the whole fact of finite mortal existence. We just don't want to sacrifice for some future goal, for our grandchildren, or for some horrendous abstraction, be it the socialist State or freedom or what have you. What we want, because we're not going to be around that long, is something now. That's why even all these grand preachers of politics—because they know that trick only partially works—also have to say: and, by the way, in the course of your sacrificing for grand goal A, B, and C, you will get the following benefits. And, after all, if you go back to Aristotle or what have you, the whole business of politics is in some sense the business of making sure the good as the good may be apprehended. The good now, not something down the road.

REASON: Libertarians tend to have the most internal problems with the foreign policy issue. They tend to be isolationists. But there are people out there who don't like America, maybe out of sheer envy, and would like to get what we have gotten. Now we don't want to give this up. We don't want to do bad things in the process of protecting ourselves, but at the same time we don't want to be naive. You must have given a little thought to some of these issues. What can you say on them?

VON HOFFMAN: Well, I think MacBride's stance on foreign policy is really the beginning of a good rational approach, which is to distinguish between those kinds of military defenses that are indeed needed to defend the country, in some rational sense, and the military expenditures that are part of adventurism of one sort or another. But I think you again run into some problems here. You can call this the curse of Karl Marx or whatever, but most people, I would venture to say, most of our fellow countrymen, in their heart of hearts, deep down, do not believe it is possible to have prosperity without armaments.

REASON: You mean without an arms industry?

VON HOFFMAN: That's right. And that is a very widely held, though not widely articulated belief, but if you go around in the saloons and in the neighborhood places of this country, it is there. It is just not true to depict the American people as vastly put upon by an arms industry, which they do not want, etc. There is absolutely no indication of that at all. There is also a lot of evidence—produced, granted, by left-wing economists, etc., but it's still there—to suggest that there would be massive unemployment on the level of 1935 if you took the arms component out of this economy.

REASON: How would you assess the current international scene?

VON HOFFMAN: I will only throw out one kind of thing which, for me at least, is frightening, but I think has to be looked at. What is the nature of foreign menaces or dangers or whatever word you want to use? I think to a large extent—more than most people are willing to or have thought about—Orwell's prophecy in *1984* vis-à-vis foreign policy has come true. If you recall that book, what he posited was that the world was divided into three supernational states, all of which had a hard-to-define but kind of popular authoritarian ideology with little real substance, all three of which were in constant war with each other in a shifting alliance in which it really made no difference who or what was aligned with whom. The evolution of all those three societies was such that their internal structures depended upon the existence of a foreign war—a permanent foreign war. I increasingly have come to feel that that is the situation that now exists between the Soviet Union and the United States, not only in the terrible immediate and obvious economic consequences of what would happen to us if our rationale for making guns were taken away, but that much of the social/political structure of a society like this one would be in danger of what I would call a tremendous implosion if the foreign enemy were to vanish. And one suspects that very much the same kind of condition exists in the Soviet Union.

REASON: Do you mean it is a way of justifying a lot of the power of the Federal government?

VON HOFFMAN: That's one of the consequences. The whole rationale for this remarkably hierarchial kind of socially authoritarian atmosphere would be put in great jeopardy in both countries. In both countries. So much so that one has to ask whether the ruling elites in both nations do not have a *terrible* quasi-conscious, quasi-unconscious interest in an infinite prolongation of this struggle according to certain sorts of rules. One of the things that has also become very clear is that—they even unconsciously realize it—in one sense they are not really contesting against each other. What we're getting here is a very, very strange kind of close contest between the Soviet Union and the United States all played within certain boundary lines. One of the examples is the recent CIA stuff and the screaming about leaks, etc. You will notice that no government official at any point has suggested that any of these leaks would put the CIA at a disadvantage with the KGB. Furthermore, take the case of the murder of the Athens CIA station chief and the furor over the publishing of his name. The Polish government printed this man's name in a directory of CIA officials seven years ago. Because the fact of the matter is that the KGB knows exactly who all the CIA agents are and the CIA knows who all the KGB agents are, and in addition to which many people are employed by both organizations. What I'm simply saying here is that there's great evidence to suggest that the KGB and the CIA are a joint stock enterprise. Whoever goes around shooting political international undercover agents, the two parties who are *not* shooting at each other are the CIA and the KGB.

REASON: With all the criticism of the CIA, what are your views?

VON HOFFMAN: I would say, look, a lot of the stuff that's been said about the CIA shouldn't do this and blah blah blah, we should have no covert stuff, is screwy. I think covert is an interesting word—not secret, because none of this stuff is secret, it's *covert.* Now what does covert mean? It means that you're messing around, but you want to mess around in such a way that you can get out of it. You can publicly disown it. Otherwise, my God, you set up a situation where everything becomes a major muscular challenge. That's the advantage of the covert. It's simply a way of saying, we're doing this unofficially—if you make too big a noise we'll get out.

REASON: What do you think of Ronald Reagan? We interviewed him and I think it was a very revealing interview. Reagan calls himself a libertarian conservative, but we pressed him and he turned out to be a fairly wishy washy conservative.

VON HOFFMAN: I would say that Reagan may represent a terrible threat to the libertarians this year in that obviously he's going to have a great appeal to the right components in libertarianism, and if he's nominated, as he very well may be, that may also so threaten the left libertarians that they will scuttle for whoever the Democrats choose.

REASON: What do you think of the man's potential as a candidate? Is he credible?

VON HOFFMAN: Oh, I think he is the person that the Republican Party wants to nominate. I have no doubt about that. Let me just point out one phenonemon. As the Republican Party becomes smaller and smaller it becomes possible for it to be purer and purer, and it is now so small that it represents a very unusual occurrence in American politics—namely, a party

that can have a good deal of internal doctrinal consistency and it is developing it. And Ronald Reagan, whether accurately or not, but I suspect accurately, is the best exemplar of this pure small party. So really the only question is whether Gerry Ford or people with him are going to be able to sufficiently control the mechanics of nomination, etc., to prevent Ronald Reagan's nomination.

REASON: What do you think of Ronald Reagan? Not so much about his politics but as a person?

VON HOFFMAN: Well I've never met the man, so I don't know anything about him. I would assume that they

all are devoted fathers and husbands!

REASON: Reagan has a speaking style that seems canned to me. However honest he wants to be—he's much better at it than Nixon used to be because Nixon was just bad at trying to be honest—he still can't get away from *trying* to be honest. Whereas when I listen to Ford he seems like he really *is* honest. That's the one thing that I think may save Ford.

VON HOFFMAN: Well, I see what you mean. And television has really changed politics. I can accept what you're saying about Reagan, and with the amount of television time that he must subject himself to as this process evolves, all of those things become clear if people wish to interpret them that way. I mean it is very very hard for a modern politician to hide himself. We haven't had a situation since Athenian democracy when the people offering themselves for election have been as well known to the electors as they are today. They are so well known—for example, as a journalist of some sort I find I never have to attempt to go see any of these people any more. All I have to do is watch television. This is really quite a unique thing that has happened so that you can't hide. Look, Hubert Humphrey can't hide—everybody knows that he's a big flannelmouth. Ultimately whatever they are is going to get out on that tube. It's sort of ironic, because there's all this talk about packaging candidates like soap—never was it less than it is now.

REASON: How would you evaluate what you've seen of the Libertarian Party's experience in campaigns thus far?

VON HOFFMAN: It's a very short history, and I'm a little reluctant to do too much evaluating, because I'm not really sure that I'm in that much possession of the facts.

REASON: Do you think the libertarian ideas as expressed in these campaigns are having any effect or making anyone take notice or changing anyone's ideas, either in the news media or in the general public thus far?

VON HOFFMAN: Well, that's very hard to say, I mean that really is a toughie. I would say this. I think there are various kinds of cores of ideas that clearly have a great deal of appeal to certain kinds of people. By and large, if I were to say what sort of people, I would say it is people from a lower middle class, working class, background who have truly accepted almost a copybook kind of definition of the values of society, have completely internalized them, are strong believers in meritocracy, have, because of their background, etc., very, very strong self-confidence—they are willing to compete, they feel they can compete, and what they want is an honest race. That kind of group in a society is, I think, quite attracted to libertarian ideas, and obviously it's an attractive thing to all kinds of intellectuals for a number of reasons—it's intricate, there are all kinds of games you can play with it, you can go in all sorts of different directions, and it also has a nice pedigree.

REASON: There is a kind of mixture of idealism and real politics that the Libertarian Party has got to learn. Is there some advice that you can offer to people who are activists in the party?

VON HOFFMAN: What you have to do is to keep trying a number of things, and you have to be very, very keenly observant about your failures, because it's out of your failures that you begin to put together what you might call a successful kind of coalition and practical political tact. It takes great perception—seeing these reactions and going over and over again, well what do we adjust here and what do we adjust there? It means at the beginning—and the beginning can be a very extended period of time—it means accepting that there must be a prolonged period of failure while those adjustments take place and you work out, so to speak, a formula that is successful.

REASON: Thanks a lot for spending this time.

VON HOFFMAN: You're more than welcome. ■

WE HAVE COME TO TAKE YOUR GUN

They said it could never happen here. Not in the good ol' U.S.A. Where a man's first right has always been to take care of himself, and of his own.

But now a bunch of do-gooders and politicians have banded together to *disarm the American public.* They call it "gun control." And they're very close to making it happen.

Obviously, the criminals among us aren't going to trot down to the police station to turn in *their* guns. So under "gun control," thugs, rapists and insane killers will be the ones left with guns!

We think that's going to be a real danger. To our country. And to you.

But it's going to happen, if the American public believes the TV shows, magazine articles and campaign speeches now pushing this muddle-headed idea. Not that we think the American public is all that stupid. But people can be conned into backing "gun control," *unless they hear the other side of the story.*

Like we've told it here.

To get the job done, this ad (and others like it) needs to run everywhere. In national magazines and newspapers and on TV. And advertising costs a bundle.

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is a priority project of the Citizens Committee for the Right to Keep and Bear Arms. Alan Gottlieb, Exec. Director. We guarantee your money will be spent honestly and to good purpose.

Will you help?

We don't care if you own a gun. Just think for a minute about whether you might ever *want* to. Please send us as much as you can. The price of your gun? Or a box of ammo? Or even a buck. Do it now.

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1601 114th, S.E.
Bellevue, WA 98004

Okay, I'll help spread the word. My contribution of
☐ $15 ☐ $25 ☐ $50
☐ $100 ☐ $_____
is enclosed. (Check or money order payable to N.F.F.F.)

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Charge amount indicated to my bank-card account:
☐ BankAmericard
☐ Master Charge

BANKAMERICARD master charge

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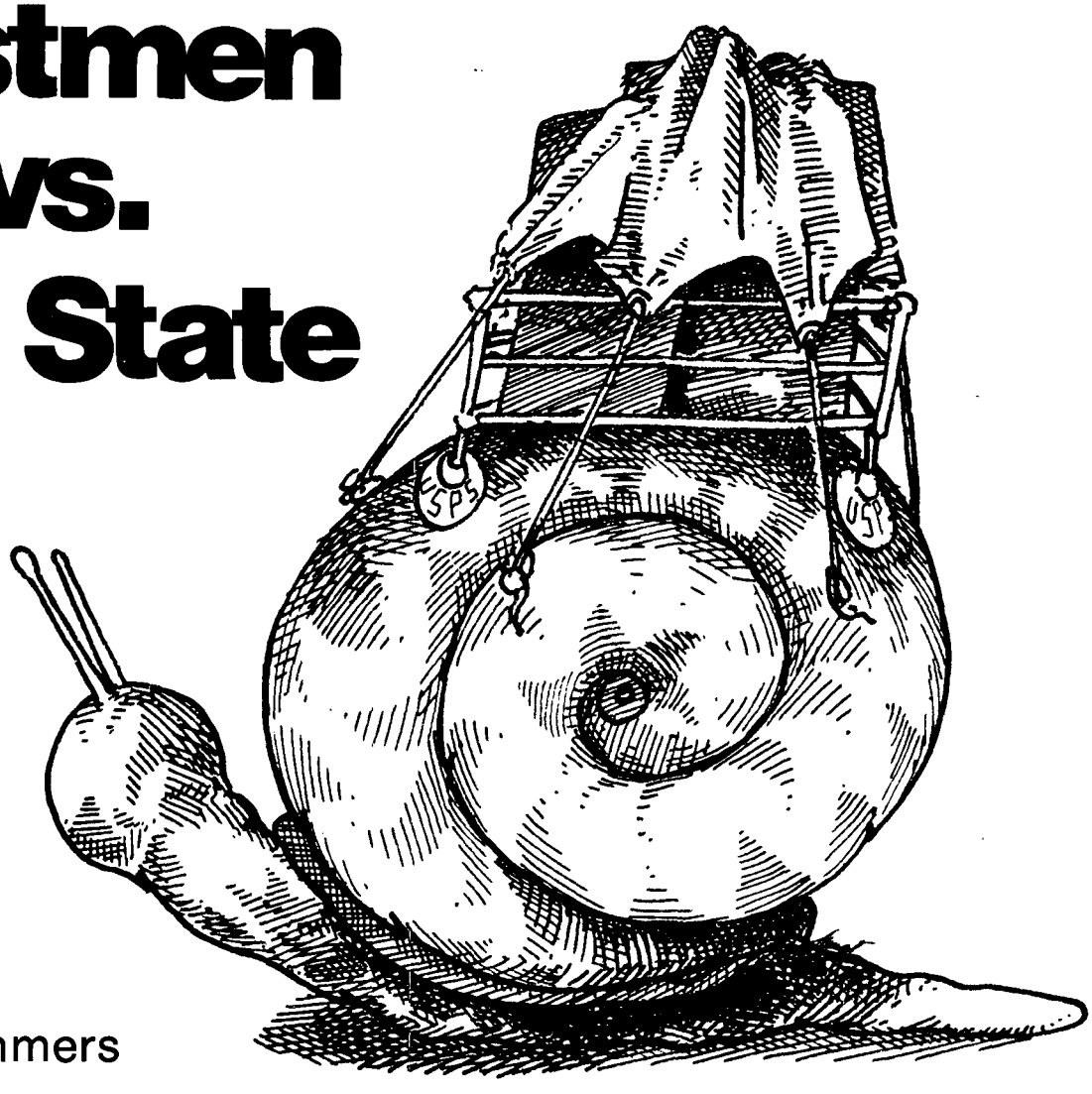
☐ I want to help as much as I can. I pledge the same amount I checked *every month for the next year.* Send me monthly bills and progress reports.

Postmen vs. the State



Brian Summers

Whenever it is suggested that postal service would be more efficient if handled privately, someone responds: "Postal service must be provided by the State because private enterprise couldn't do the job." This objection does not stand up in the light of history. In the past 300 years, thousands of private carriers have provided efficient postal service in England and America.

Three such private carriers stand out in British history: William Dockwra, Charles Povey, and Peter Williamson. These men were so efficient that the British General Post Office, after closing down their businesses, adopted many of their methods.

William Dockwra established his London Penny Post in April 1680. Within a few months he had 400 post offices and was making 10 daily deliveries and 4 to 10 daily collections. Thus it was possible to send a letter and receive an answer the same day. The 1946 edition of the *Encyclopedia Britannica* reports:

> The staff employed in London by Dockwra considerably exceeded that employed by the post office in the whole kingdom. This truly remarkable enterprise gave London a postal service which in some respects has never been equalled before

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or since.

> For some time Dockwra struggled with serious financial difficulties; but no sooner had the penny post begun to show a profit than the duke of York, on whom the post office revenues were settled, asserted his monopoly. Dockwra was condemned to pay damages and his undertaking was incorporated in the General Post Office; but the London penny post long survived its creator and was maintained until 1801.

Charles Povey founded his Half-Penny Carriage in October 1709 and served parts of London, Westminster, and the borough of Southwark. Using bell ringers to collect letters and charging lower rates than the General Post Office, he quickly won public acceptance. After seven months of operation he was fined and put out of business, but his system of bell ringers was adopted by the General Post Office and continued in use until as late as 1846.

Peter Williamson established his Edinburgh Penny Post in 1776. According to his advertisements, he delivered anything "not exceeding three pounds in weight, to any place within an English mile to the east, south and west of the cross of Edinburgh, and as far as South and North Leith, every hour through the day, for one penny each letter or bundle."

Williamson's outfit was so successful that his wife and father-in-law set up a competing penny post. He outlasted them, but after 17 years his business was taken over by the General Post Office.

Following the lead of these three men, private penny posts sprang up all over the British Isles. According to one source, by 1800 there were over 2,000. Today, due to vigorous enforcement of the British postal monopoly, there are none.

A GOOD START

The American story is much the same. In the 18th and 19th centuries, hundreds of private letter carriers successfully competed with the Post Office. Due to the enforcement of the American postal monopoly—codified by the Private Express Statutes—none has survived.

The United States has had restrictions of one form or another against private postal service since 1692, when William and Mary granted Thomas Neale a franchise to provide postal service in the colonies. In 1707 the franchise was purchased by the Crown and placed under control of the Postmaster General. Fortunately, the franchise was loosely enforced, and it became common for travelers to carry letters for relatives, friends, and even strangers. The resulting anemia in the government mails was noted by British authorities, and in 1773 Hugh Finley, a Canadian postal inspector, was sent to investigate. Finley reported finding widespread competition with the Post Office. For instance, in Newport, Rhode Island, he found "two post offices, the king's and Peter Mumford's."

In 1775 the Continental Congress officially put an end to the king's postal operations in America, but only after a private carrier, William Goddard, had cleared the way. Carl H. Scheele, Curator of Postal History, Smithsonian Institution, writes:

> After royal authorities barred William Goddard's newspaper from the mail, the journalist hired riders in August 1774 to carry his papers from Baltimore to New York via Philadelphia. By May 1775, he had inaugurated successful routes from Portsmouth, New Hampshire, to Williamsburg, Virginia. Gradually, the royal posts were driven from the roads or ceased to function. Goddard's system served the colonists until September 1775, when the Continental Congress took over control of postal operations.

The Articles of Confederation gave Congress "the sole and exclusive right and power of ... establishing and regulating post offices from one State to another, throughout all the United States, and exacting such postage on the papers passing through the same as may be requisite to defray the expenses of the said office. . . ." In 1782 the Continental Congress passed a postal law providing for a monopoly with the exception of special messengers, an exception that has persisted to the present day.

The Constitution gives Congress the power "to establish post offices and post roads" (article 1, section 8). Significantly, the words "sole and exclusive," which appeared in the Articles of Confederation, were eliminated.

Since 1789 Congress has passed numerous Private Express Statutes. Of particular interest are the statutes of 1825 and 1827. The 1825 law provided that no vehicle regularly traveling on or parallel to a post road could carry letters, except letters related to cargo. The 1827 law prohibited the establishment of private foot or horse posts for the conveyance of letters on a post road. These laws had two loopholes that private carriers were quick to exploit: The 1827 law did not apply to railroads, and courts weren't willing to hold the owner of a vehicle responsible for letters carried by a passenger.

BESTING THE STATE

The first person to openly exploit these loopholes was William F. Harnden, a former conductor on the Boston & Lowell Railroad. On February 23, 1839, he placed an advertisement in the Boston newspapers, addressed to "merchants, booksellers, and all businessmen," announcing that he would

> run a car through from Boston to New York and vice versa four times a week, commencing on Monday, the 4th of March. He will accompany the car himself for the purpose of collecting drafts, notes and bills. Orders of all kinds promptly attended to. He will take charge of all small packages of goods, bundles, etc., that may be entrusted to his care, and see them safely delivered, and attend to forwarding merchandise of all descriptions.

Harnden's success attracted competition, and by 1843 Boston alone had at least 20 private carriers, including Alvin Adams, founder of the Adams Express Company.

Soon private post offices dotted the land. There were Hussey's Post and Boyd's City Express in New York City; Pomeroy's Letter Express in eastern New York State; the Letter Express Company in western New York

State, Chicago, and Detroit; Hale and Company in New York, New England, Philadelphia, and Baltimore; Lysander Spooner's American Letter Mail Company; Blood's New York Express (four deliveries and five collections daily); Wells and Company (later to become Wells-Fargo); Yankee Jim's Loon Creek Express; Randall and Jones Canyon City Express. One stamp catalog lists 150 private carriers. By 1845 private carriers were transporting an estimated one-third of the nation's letters.

How efficient were the private carriers? *Hunt's Merchant Magazine* reported: "Government enterprise is wholly unable, under its most advantageous promptings, to compare with private enterprise." Albert D. Richardson wrote that Wells-Fargo Express operations in the West "illustrate the superiority of private enterprise. Whenever the messengers run on the very steamer, or the same railway carriage, with those of the United States mail, three-fourths of the businessmen entrust them with their letters, which are invariably delivered in advance of government consignments. . . ." Carl H. Scheele reports: "Letters were picked up by company carriers and delivered to the doors of addresses in distant cities in less time and for less money than required for U.S. Mail."

In the past 300 years, thousands of private carriers have provided efficient postal service in England and America.

GOV'T DOESN'T GO OUT OF BUSINESS

Of course, these developments were noted in Washington. In 1844 Senator James F. Simmons of Rhode Island declared, "The fact is notorious that . . . on the express routes, twenty letters are sent outside the mail for the one that is carried by the mail." That same year Congressman John P. Hale of New Hampshire warned: "Events are in progress of fatal tendency to the Post Office Department; and its decay has commenced." The Philadelphia postmaster predicted that if the private carriers "be not put down, they will ere long put down the Post Office Department."

Unable to match the efficiency of the private carriers, the Post Office resorted to force. In 1845 the Private Express Statutes were strengthened to prohibit any private conveyance of letters by regular trips, or at stated intervals, between cities regularly served by the U.S. Post Office. Penalties were also increased. Those intercity carriers that weren't frightened from the market were prosecuted.

The 1845 law did not, however, prohibit intracity carriage. Scheele reports:

> Private collection and delivery services remained in operation within cities. In fact, it was the City Despatch Post, established by Alexander M. Greig and Henry T. Thomas to carry letters within New York, that issued the first adhesive postage stamp in the United States on 1 February 1842. Boxes for depositing letters were put in public places. Registry service was available, at 3 cents plus postage, for letters with valuable contents—another service not offered by the Post Office Department. The stamps, especially useful for prepaying postage on letters deposited in the boxes, were sold at 3 cents each or $2.50 per hundred. This local post flourished, and by July 1842 was handling about 450 letters per day, in contrast to the 250 handled by government carriers at the New York Post Office. The government bought Greig's post, estimating that the combined service would produce an annual revenue of about $2,400; the postage stamps continued in use. In 1844, however, John T. Boyd opened a rival local system with improved delivery schedules and soon offered better service for less money, charging 2 cents per letter. The United States City Despatch Post of New York, the government's first important effort at city delivery service, gave way to private competition and ceased operation on 28 November 1846. . . .

If the private carriers "be not put down, they will ere long put down the Post Office Department."

In 1872 Congress legislated an end to the loophole permitting intracity carriage. Under this law, in 1883 the conveyance of letters over the streets of New York City was held to be illegal. This put an end to the intracity carriers.

The United States Postal Service continues to hold a legal monopoly over the conveyance of letters (first-class mail) with a few minor exceptions, such as special messages and interoffice mail carried by employees. The USPS, however, is experiencing increasing competition in other classes of mail, not covered by the Private Express Statutes, and even has some competition in the delivery of letters.

PEOPLE PREFER PRIVATE

Private carriers, chiefly United Parcel Service, now convey well over half the nation's parcels. And little wonder. United Parcel is generally faster, cheaper, and has one-fifth the breakage rate of the USPS. In March 1976 the USPS announced that it had 3.7 million damaged articles, mostly books, stored in Chicago. Undelivered mail has also been uncovered in the Washington and Memphis dumps. A private enterpriser who performed such feats would soon be driven from the market and hauled into court.

A growing number of magazines are being privately distributed, as publishers use newsstands, supermarkets, milkmen, and private carriers such as National Postal Service and Inland Carriers. National Postal Service de-

livers 15,000 copies of *Reader's Digest* and about 7,500 copies of *McCall's* and *Better Homes* to subscribers in northern California. Inland Carriers, based in Riverside, California, delivers 125,000 copies of the *Wall Street Journal,* 10,000 copies of *Reader's Digest,* and 4,000 copies of *Time, Newsweek,* and *U. S. News.*

Private carriers are also delivering an increasing number of advertising circulars–labeled "junk mail" by the USPS. Carrier Boys of America serves six million households in New Jersey, New York, Pennsylvania, Delaware and California. The Mississippi Postal Service employs up to 600 carriers in three parts of the state. National Postal Service is delivering 400,000 circulars each month for the Treasury Store chain, an affiliate of J. C. Penney. And newspapers are carrying a growing amount of advertising that previously went through the government mails.

The Private Express Statutes do not prohibit firms from delivering their own bills. Peoples Gas of Chicago delivers its bills for slightly more than nine cents each. The Georgia Power Company estimates it will save $400,000 a year by delivering its bills to 400,000 customers.

As postal rates have risen, the USPS has experienced a small decline in the volume of first-class mail, some of it due to competition from the telephone, electronic transference of funds, and electronic facsimile transmission. But the most significant competition, from the standpoint of libertarians, is coming from Alternate Systems, a Pittsburg, Kansas, carrier that is directly challenging the Private Express Statutes.

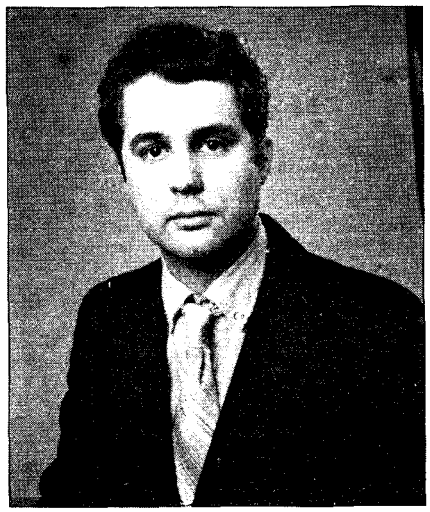
TO THE COURTS AND CONGRESS

Since March 1976, Alternate Systems has been providing same-day letter delivery for one-half the USPS rates. This is in direct violation of the Private Express Statutes, and as of April 1976 the U.S. Attorney is preparing to prosecute. Holding that the Private Express Statutes are unconstitutional, Robert E. Black, founder of Alternate Systems, has vowed to fight in court.

While Robert Black has been challenging the legality of the Private Express Statutes, there have been recent moves in Washington toward repealing them. In January 1976 the Council on Wage and Price Stability issued one of its pro-competition reports, this time concluding that competition in first-class mail delivery would slow or turn around the drastic climb in postal rates. In Congress, Representatives Philip Crane and Steve Symms, along with 20 cosponsors, have introduced HR-1085, a bill that would repeal the Private Express Statutes.

Unfortunately, most of those coming around to the idea of postal competition have swallowed the assumption that postal service is a proper function of government–the USPS just needs a little competition to make it more efficient. With this prevailing mentality, what will happen if the Private Express Statutes are repealed and the USPS consequently faces collapse? Would there be increased subsidies? Would the ICC put the squeeze on the private carriers? Would the NLRB throw in a monkey wrench? Would the IRS close down the carriers? Or would new statutes be imposed?

As is demonstrated by the laws of 1845 and 1872, previous attempts to establish private mail service *while trying to maintain government mail service* resulted in the political destruction of the private carriers. Those who are dismayed with the current postal non-service and see hope in the turning toward competition should be forewarned: only one battle will thus have been won unless there are strong safeguards against the USPS being hooked up to some artificial life-support system. ◻



Brian Summers

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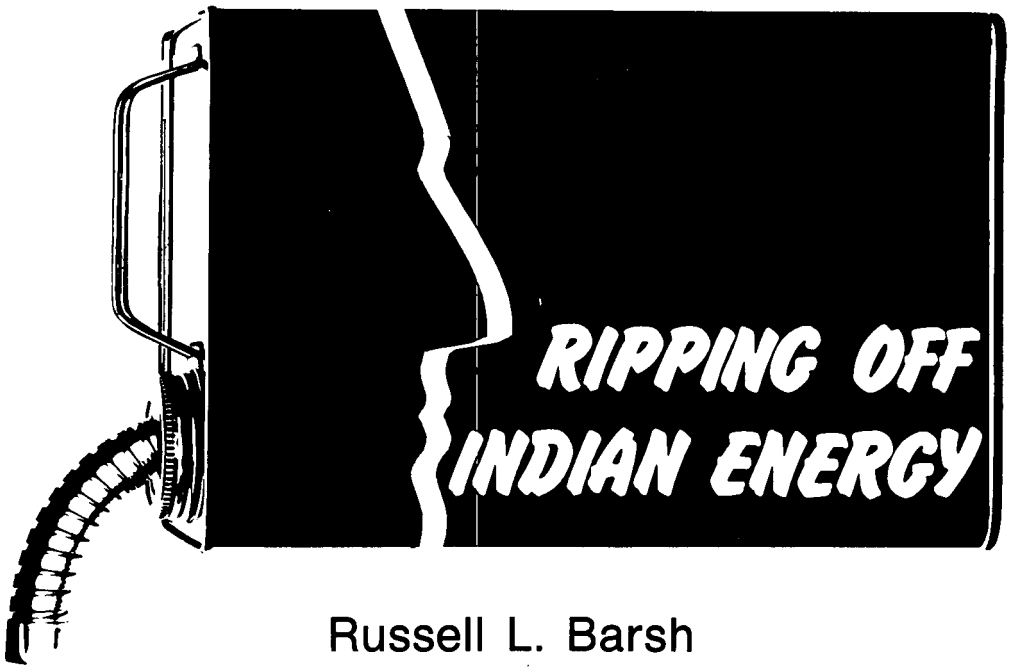

Russell L. Barsh

As the demand for energy and national recreation areas accelerates the value of certain Indian-owned resources, such as coal, hydroelectric power heads, and undeveloped land, a century-old struggle for authority to dispose of tribal property is rapidly coming to a crisis. It is dangerously misleading to place most of the blame on the energy companies for the unfair treatment of Indians doing business with them. Were that the whole story, all resource owners would be equally exploited. The facts are nevertheless that tribal resource owners on the whole enjoy significantly lower returns than others. Unless it is being suggested that Indians are generally so inept and economically imprudent that they are more helpless than the rest of the population, what is the source of the overweening bargaining power of companies that deal with Indians?

The plain truth is that tribes are not at liberty to freely dispose of their resources. Under Federal law, they are only the beneficial, not the legal, owners of resources located within their territories. The U.S. government, the self-appointed trustee for their "protection and advancement," reserves the ultimate power to dispose of tribal property, with or without consent. In practice, this means that the government has the right to oversee leasing and development, the right to tax Indians on the proceeds of such leasing, and the right to ultimate ownership of reservations.

No tribal lease or development program can proceed without the approval of the Secretary of the Interior or, in specified cases, his subordinate. This makes it possible for the agency to ransom tribal development plans for concessions to the Federal government or to compel tribes to develop or not develop as the agency wishes. It also necessitates that companies negotiate contracts simultaneously and independently with the tribe and agency, at added expense, delay, and accommodation.

Coal development on the Crow reservation in Montana is a case in point. The Crows first learned of industry negotiations with the Bureau of Indian Affairs when the agency advised them to agree to lease their entire field at 11 cents per ton royalty. At that time, adjacent off-reservation tracts were leasing for two to three times that amount. Refusing the initial offer, the Crows negotiated prospective lessees up to 17½ cents and were still unsatisfied, but the Bureau in no uncertain terms recommended immediate acceptance. Further tribal pressure would merely "delay" or "jeopardize" development, said the Bureau, and the price was already as high as possible anyway. The Bureau also told the tribe that the coal would be subject to the same state taxes as adjacent non-Indian coal beds, although in fact state taxation of that coal was and is forbidden by Federal statute. Accordingly, the Crows accepted the leases, which included further terms and conditions inserted by the Bureau, such as perpetual, unilateral renewability by the lessees, immunity from tribal taxes, and inadequate performance and reclamation bonds. The Crows did not need an energy crisis to make renegotiation of these leases beneficial and lawful.

Essentially the same story was repeated in the leasing of the Northern Cheyenne coal reserve (also in Montana) and in substance at almost every other reservation, whether the sought-after resource was water, timber, or petroleum. The lesson business has learned has been unmistakable: it is cheaper to influence the Bureau of Indian Affairs into cajoling tribes to accept cheap terms than to offer tribes fair market value outright. This is not racism; simple economics turns the energy companies into ogres, so long as the Bureau functions.

This simple lesson is applicable with equal force to any property controlled by a bureaucracy having no direct interest in it. The bind in which the Indians find themselves has been compounded by the fact that the United States reserves a present and future pecuniary interest in tribal resources.

Russell L. Barsh is a lawyer and teaches at the University of Washington's Graduate School of Business. He has served as a consultant to the Crow Tribal Law and Order Committee.

The present interest is exemplified by the 10-percent gross-receipts tax that tribes must pay the U.S. Treasury on every lease of tribal property. This is a special tax on Indians, enacted in 1925 for the express purpose of reimbursing the United States for making tribes' business decisions for them. Since the tax is on gross receipts, it encourages the Bureau to maximize tribal receivables, not net gain. Moreover, the balance of tribal funds, after this deduction, is turned over and managed by the Treasury, which determines how it shall be invested and at what rates of return.

The United States is also the legal remainderman of tribal realty. When a tribe voluntarily cedes its territory or is terminated, the balance of its property becomes public domain, subject to patent, development, or cession to the states. ("Termination" is legal jargon for the summary extinction of a tribe's political existence. After termination, tribal members cease to be legally Indians, lose any special Federal benefits provided for Indians, lose the right to govern themselves as a group, and may vote and hold office in state, but not in tribal, government. The United States may dispose of the property of a terminated tribe, subject to the Fifth Amendment requirement that former tribal members be paid pro rata for it. Former members may form a state corporation to manage formerly tribal assets, if the United States approves, but they cannot by so doing preserve their original lawmaking powers or jurisdiction. All three branches of the Federal government agree that there is no constitutional bar against termination. Termination has been actively pursued only from 1953 to 1963. One reason is that the Bureau of Indian Affairs depends upon the continued existence of tribes to justify its own institutional survival. Thus while tribes have learned to resent the economic burdens of Bureau regulation of their affairs, they have also learned that the Bureau is their only ally in the continuing struggle to fend off a return to terminationism.) Congress can therefore rely on tribal property for pork-barreling, either by developing it now under conditions favorable to non-Indians or by holding it dormant until it can be delivered in its entirety to state governments.

The United States, along with the recreation industry lobbies, is party to tribal victimization in still another way. There has developed a large and often well-capitalized market for land in its pristine state, reflected in the recreation industry and lobby treasuries. Indeed, we have begun to view land as a *public good*—a good that the government ought to subsidize because its benefit is so diffuse demographically and diachronically that sufficient private capital cannot be attracted to it. The effect of the Due Process Clause ("just compensation") is to encourage the taking of the cheapest available real estate, which is usually to say the least-developed. By a happy coincidence, the cheapest undeveloped land is also of greatest recreational value. (If anything, this value has been enhanced by the popular press's exhorting non-Indians to emulate Indians and do "beautiful Indian things!") Whose land does the government take for this purpose? Tribal land.

A sad example of the subordination of Indian property rights to recreation interests is the Yellowtail Dam site in Montana. It had been purchased from the Crows under threat of uncompensated confiscation. Fifteen years ago, the National Park Service saw fit to expand the Yellowtail Dam site into a national recreation area. In return for an additional 40,000 acres of tribal mountain lands on indefinite lease, the service offered the Crows nothing more than an option to erect and maintain such recreational facilities on that acreage as the Secretary of the Interior should deem convenient—when, where, and if he should deem if convenient. The Bureau of Indian Affairs successfully urged the tribe to accede, although the consideration amounted to a *diminution* of the tribe's existing proprietary rights and a *subsidy* of recreation interests. The implication was that development funds would be available if and only if the tribe applied them to this purpose.

It has been more than a century since the Bureau of Indian Affairs was transferred out of the War Department to its present abode in Interior, where it shares quarters with the Bureau of Mines, Bureau of Reclamation, Bureau of Land Management, National Park Service, and other agencies committed to the national use and enjoyment of natural resources. It is hard to believe that the Interior Secretary can protect tribal rights when all but one of his subagencies are wholly averse to those rights.

The present system of Federally governed Indian reservations was dubbed the "Indian peace policy" by its reformist proponents of the 19th century. Today, tribes are confronted with a new breed of reformers, considerably more dangerous because they have succeeded in manipulating Indian's own consciences to advance their cause: the environmental and recreation lobbies.

Whatever their other, more praiseworthy, ambitions, they have palmed off a terrible conceit on tribes, no less than the rest of us—that Indians were the "first ecologists." Ergo, no "genuine" Indian ever develops natural resources. Genuine Indians tranquilly float through existence requiring no material sustenance other than wild hickory nuts. Accordingly Indians, already burdened with a system of public education and mass media representing them as either bloodthirsty barbarians or personified peyote dreams, have had to deal with the challenge that they are untrue to themselves when they choose to make use of the only capital they yet possess. On the Northern Cheyenne reservation an inundation of environmentalist literature touched off a bitter controversy between older and younger citizens over who were the better Indians. To a less dramatic extent this is repeated everywhere.

Not satisfied with political access to the Bureau and Congress, environmental lobbies have persuaded the Federal courts that the National Environmental Policy Act is applicable to tribal business by characterizing pro-

Business has learned that it is cheaper to influence the Bureau into cajoling tribes to accept cheap terms than to offer tribes fair market value.

posed development projects as mere *Federal* instrumentalities. Consequently every lease and industrial project, no matter how small, is contingent on the filing of an environmental impact statement, at great cost to already impoverished tribal economies. At the same time, the tribes' own constituent governments are deemed incapable of enacting their own protective environmental legislation as do the states, although many in fact have, notwithstanding NEPA. In the same way that the double process of negotiation and bureaucratic review under the Bureau of Indian Affairs increases the costs to business of contracting for tribal resources, the review procedure under NEPA causes delays and increases the costs to tribes of accepting contracts. Both lead inevitably to lower royalties, higher capital costs, and general aggravation of Indian poverty.

Many companies doing business with tribes privately argue that lower rents and royalties are attributable to arbitrary and dilatory tribal councils, the absence of supportive tribal institutions such as courts, geographical isolation, and lazy Indian employees—rather than discriminatory Federal interference and corporate ability to capture Bureau support. These arguments are of little merit. Primary industries are no strangers to physical isolation; nor are they ignorant of the need to play politics with state and Federal licensing, leasing, and regulatory agencies. Few resource developers have been affected by the competence of Indian labor one way or the other because of their practice of importing non-Indians already on the payroll for most positions.

The real issue underlying the problems of Indians who deal with companies is whether tribes will ever be the masters of their own property. Historically, Indians have always been forced into the position of caretakers of non–Indian interests. Whether their reservations have served to preserve natural resources for the Federal government or to preserve undisturbed habitats for private recreation, Indians have always been dealt with as if they were mere placeholders, tolerated on the land so long as they did not diminish its ultimate value to others. Development and nondevelopment have never been considered for their impact on tribal self-sufficiency, but for their impact on national welfare as determined by which lobbies have been most effective in gaining access to the Department of the Interior. As such, my answer to that inevitable diatribe over Indians' not paying taxes is that Indians bear a far greater tax than any of the rest of us. To be sure, reservation Indians are not required to pay state taxes. But not only do they pay the same national taxes on income as other citizens, but they are prevented from earning income so that others can obtain cheaper resources.

It is hard to believe that the Interior Secretary can protect tribal rights when all but one of his subagencies are wholly averse to those rights.

The longer Indians remain impoverished, the longer the Bureau survives.

The continuing inability of tribes to effectively compete with industrial and anti-industrial lobbies before the Congress can be directly attributed to their lack of capital for employment in politics. As long as tribes remain poor, their limited funds controlled by the Treasury Department and the Bureau of Indian Affairs, they will never be able to ensure their political liberty. Indeed, those few, such as the Navajo, that have successfully developed their resources for their own benefit have found their influence in Congress augmented with their wealth. This realization has prompted them to provide greater attractions for business.

Many tribal leaders are heard to say that economic development is the surest path to termination of reservation status. Indeed, the Federal courts have made it plain that self-sufficiency is an indicator of "competency" and that once Indians are demonstrably "competent" to manage their own affairs there will no longer be any need for "protective" measures. This is an affirmation that exploitation is at the end of all Indian policy. If tribes demonstrate their competence to govern themselves without supervision, it would seem a strange reward to dissolve their constitutions and disperse their citizens! The only sensible inference to be drawn from competence is that supervision as such should be terminated and that tribal powers should thereafter be freely enjoyed in the same degree as the powers of all of our other sub-Federal governments. The Bureau, not the tribe, is the logical victim of the advent of tribal self-governance, and that is perhaps why the Bureau has acquiesced in the demands of other agencies for donations of tribal resources. The longer Indians remain impoverished, the longer the Bureau's reprieve.

There is, of course, a calculated risk in the move to economic self-sufficiency. As tribes develop and improve their territory, and consequently their power, they also become more attractive targets for confiscatory exploitation. It was no accident that the Cherokee Nation was removed from Georgia 140 years ago only after it had for 25 years been clearing the wilderness and building roads, canals, and bridges. It was also no accident that among the first tribes to be terminated pursuant to House Concurrent Resolution 108 (1953) were the Klamath and Menominee, developers of rich timber resources. To be sure, if tribes move toward the full political franchise that economic power entails, they must move deliberately and without hesitation, lest the value of their land ever outstrip the surplus finances available to them to defend it. The destructive alternative is a trusting inaction by which Indians will ever remain the caretakers of the land for eventual appropriation by the nation. ■

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Arthur Shenfield

Must we abolish the State?

The traditional theory of the free market economy clearly distinguishes it from a system of anarchy. Men are to be left free to buy, to sell, to produce, to consume, to save, to invest, to lend or to borrow, as they think fit in the circumstances in which they find themselves. But this freedom needs to be protected by a constraining power. Otherwise the freedom of one man will reduce or extinguish that of another. This constraining-protecting power is the State.

On this view the free market economy rests upon the enforcement of Herbert Spencer's Law of Equal Freedom: "Every man has freedom to do all he wills, provided that he infringes not the equal freedom of any other man." The sentiment, from the point of view of maximum freedom for all, is impeccable; but as Dr. Murray Rothbard, quoting Clara Dixon Davidson, has pointed out, the proviso in Spencer's statement is redundant. For if every man has freedom to do all he wills, it follows that no man is infringing any other man's freedom. (*Power and Market* [Menlo Park, Ca.: Institute of Humane Studies, 1970], pp. 159-60.)

However, in the economist's exposition of the nature and operation of the free market economy, far more attention has been given to the analysis of market freedom than to the agenda of the constraining-protecting State. For the most part economists have been inclined to say that the State's function is essentially to prevent the subjection of one man to the force or fraud of another, leaving the details to lawyers or political scientists and passing comfortably on to more interesting subjects. Thus Mises tells us:

> An anarchistic society would be exposed to the mercy of every individual. Society cannot exist if the majority is not ready to hinder, by the application or threat of violent action, minorities from destroying the social order. This power is vested in the State or government. State or government is the social apparatus of compulsion and coercion. It has the monopoly of violent action. No individual is free to use violence or the threat of violence if the government has not accorded this right to him. The State is essentially an institution for the preservation of peaceful interhuman relations. However, for the preservation of peace it must be prepared to crush the onslaughts of peace-breakers. [Ludwig von Mises, *Human Action* (Chicago: Henry Regnery, 1963), p. 149.]

But though Mises devotes a very great deal of space in *Human Action* to the acts of the State, he is almost wholly concerned with its ill-conceived, counterproductive acts, or with acts serving particular interests against the general interest. It is the exposure of the errors of State intervention in the free market, not the exposition of the details of its proper agenda, which mainly interests him.

Of course it is true that economists have had a good deal to say about taxation, antitrust, corporation, and trade-union law, the regulation of monopolies, and the social-cost-versus-private-cost problem. But more often than not, like Mises in *Human Action,* they have concerned themselves with what the State ought not

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to do much more than with what it ought to do. Many years ago this indicated to Lionel Robbins a lacuna which needed to be filled. Thus when he sought to make clear that the liberal economy, with its constraining-protecting State, was a plan (i.e., a system of order), he first said:

> The system of rights and duties of the ideal liberal society may be thought to be a good plan or it may be thought to be a bad plan. But to describe it as no plan is not to understand it at all. The idea of a coordination of human activities by means of a system of impersonal rules, within which what spontaneous relations arise are conducive to mutual benefit, is a conception, at least as subtle, at least as ambitious, as the conception of prescribing positively each action or each type of action by a central planning authority: and it is perhaps not less in harmony with the requirements of a spiritually sound society. We may blame the enthusiasts who, in their interest in what happens in the market, have paid too little attention to its necessary framework. But what shall we say of those who argue perpetually as if this framework did not exist? [*Economic Planning and International Order* (New York: Macmillan, 1937), pp. 228-29.]

But then he added a footnote which indicated that it was a prime function of the champion of the liberal economy to advance the study of the agenda of the State:

> . . . in the opinion of the author, it is in the discovery of improvements in the admittedly defective framework of the present that one of the most important paths of future reform consists. It is not certain that on every possible occasion the mechanism of markets will function satisfactorily. But experience suggests that in most cases where it does not, investigation shows that there is some deficiency in the law. These deficiencies are often apparently trifling. To discover them is a dull matter involving hard work and little emotional satisfaction. But it is difficult to exaggerate the practical significance of such studies. It is only necessary to compare the radically different evolution of industrial structure in England and in Germany to realize how important apparently unimportant differences in the law may be. It may be suggested that if half the energy which has been put into discovering ways in which the monopolistic activities of private enterprise may be superseded by the monopolistic activities of government organs had been devoted to discovering ways of preventing private enterprise acquiring legalized monopolistic power, the so-called monopoly problem would have ceased to be very important. [p. 229.]

In almost everything, the neoanarchists are poles apart from the turgid confusions of the anarchists of former times.

Whether the traditional exponent of the free market economy directed his attention to the things that the State ought, or to the things that it ought not to do, he clearly assumed that the existence of the State was legitimate, and hence that there were legitimate tasks to be assigned to it. This also applied to reputable non-economist exponents of the free society. Thus when Herbert Spencer wrote *The Man versus the State,* he did not mean that the very existence of the State was an enemy to man. He meant only that the State had become, or was becoming, man's enemy because of its growing intervention into activities which were not its rightful concern.

While economists and political philosophers in the 18th and 19th centuries were expounding the nature of the free market and the free society, certain others, following a quite separate track, were advocating the abolition of the State, in the interest variously of some notion of freedom, of justice, or of brotherly love. These were the anarchists of yesteryear. Some, like Bakunin and Kropotkin, were clearly anarchists in the fullest sense. Others, like Godwin, Proudhon, and Tolstoy, whose intellectual confusion was as marked as their enthusiasm, seemed most of the time to be complete anarchists, but from time to time also seemed to have some kind of place for a reformed State in the vague utopias that fired their imagination.

Now a new phenomenon has presented itself. In recent years anarchists have arisen of an entirely different stamp. Their track is essentially the same as that of the traditional exponents of the free market economy. They seek to maximize the freedom of economic activity because they have the same, or almost the same, aims as the classical economists and their successors. Unlike the anarchists of yesteryear, they uphold the virtue of private property and understand its role in the free market and the free society. They are analytical economists of high competence. They are keen observers of the performance of the State, and they rest their conclusions upon arguments worthy of respect to show why the State can be only a constraining, never a constraining-protecting, power for human freedom.

The leading exponents of this neo-anarchism are Dr. Murray Rothbard, quoted above, and Dr. David Friedman. There have been American anarchists in the past (e.g., Benjamin Tucker and Lysander Spooner), but these were generally of the old breed. If they have had an American forerunner at all, it has been Albert Jay Nock, the author of *Our Enemy the State.* (Caldwell, Idaho: Caxton Printers, 1935. Unlike Spencer, Nock really did mean that the State is by nature man's enemy.) But Nock's economics was embryonic and his influence on the intellectual world was slight. Rothbard, whom Mises was once heard to describe as the most gifted student that he had during his American period, has presented his theory of anarchism mainly in his *Power and*

Market; Friedman in his *The Machinery of Freedom* (New York: Harper & Row, 1973). Both books are persuasively written and cogently argued. In this, as in almost everything else, their anarchism is poles apart from the turgid confusions of the anarchists of former times.

Their argument runs as follows.

THE NEOANARCHISTS' CASE

First, all known States, including in particular the State in modern Western society, have been instruments of violence against man's freedom and prosperity. In the past many States made no bones about it. The modern Western State pretends to be the protector of freedom and the promoter of prosperity, but in fact it is the same tyrant and robber that all States have been. Its "progressive" taxation is a blatant exercise in robbing Peter to pay Paul, who fails to see that he too is robbed in the process. Its "welfare" activities keep the "poor" poor, and at the same time bite into their liberty and into that of those who pay for their "welfare." Its interventions into the markets for goods and services are calculated, whatever the pretense, to serve particular interests against the general interest; but being usually fickle in inspiration and crude in execution, they often fail to serve even the particular interests effectively, thus leaving the citizenry in general both less well off and less free. It assumes the management of its citizens' monetary system but constantly defrauds them by inflating the currency, and it shamelessly engages in "bucket shop" activities when it seeks to borrow from them.

Secondly, the modern State fails to discharge the elementary duty, which even some despotic States managed to do in the past, to protect its citizens from the force and fraud of each other, as distinct from its own force and fraud. The American citizen now walks in his city at night, and not infrequently by day, at his peril. If he wishes to be safe in his home, he had better keep a fierce animal to deter marauders or live in a high-rise complex with its own private guards. If he runs a bank, or any other business handling sizeable sums of cash, he had better invest in the services of private protective agencies, for the State's police will do little for him. If he has a claim against another citizen in contract or tort, he will find the State's machinery of civil justice intolerably slow, clumsy, costly, and capricious. Hence, in a growing number of cases he already finds it better to dispense with the State's system and either to settle his claim by agreement or to call in aid the services of a private arbitrator. Thus there develops a growing reliance upon private police and private justice to oust the public policing and public justice which the State is supposed to provide.

Thirdly, it is an illusion to believe that the State can be cured of these defects, for they are of its very nature. The State is not an entity apart from the rulers. It is the rulers themselves, be they kings or democratic politicians or bureaucrats. How can the rulers not seek to serve the interests of those whose suffrages or money or bayonets keep them in power? How can the rulers be granted a monopoly of force and yet use it without seeking the benefits of monopoly for themselves? If the only effective antidote to monopoly is open entry for potential competitors, why should the State's monopoly of force be a unique exception? If the tendency of unchallenged monopoly is to become inefficient and unproductive, why should the State's monopoly of policing and the dispensation of justice be otherwise?

Fourthly, the State is not needed for the purposes which the traditional exponents of the free market assign to it. The free market can protect its own freedom. The idea that the free market can supply everything except its own protective framework of law is false. There is a market in law and protection as in everything else; and as with everything else the market is the most efficient provider.

FREE MARKET PROTECTION

It is in the elaboration of this fourth point that our neoanarchists present their most interesting ideas. How would the market provide law and protection? Since there would be a demand, a supply would be forthcoming. Private protective agencies would arise to offer their services to the citizens. A citizen would choose his agency as he now chooses his insurance company. The protective agency would provide physical protection both against fellow inhabitants of his territory and against enemies external to it; and for this it would acquire the necessary weapons and hire the necessary personnel. It would also provide a system of law and of courts for the settlement of disputes. Its purpose would be to protect its clients against force and fraud just as the State is supposed to do. If two contending parties both subscribed to the same protective agency, its law and its court would determine the issue. If they subscribed to different agencies, each might invite the other to plead before his own agency's court. If either declined so to do, the issue would be determined by a court of appeal adjudicating between the two courts and their two systems. As in the case of all free markets, there would be competition for business. That system of law and courts which proved more serviceable for any purpose than others, would acquire more subscribers among those who sought that purpose. For some purposes one system might be more, for other purposes less, efficient than others, just as in all service markets. Hence different systems would continue to coexist in competition.

Does this scenario appear to embody a large element of fantasy? No, say our neoanarchists. How did the famous Law Merchant arise, if not by the free trial and error of European merchants? Before the State came in with its jackboots and adopted the Law Merchant as its own, the law continually adapted itself to the needs of its free market. It was not exactly the same in London as in Amsterdam or in Hamburg, but rules developed for the settlement of disputes between merchants in the various centers. And how about modern international law?

The system of private law and protection will work, it is contended, because it will be truly built on the rock of complete sanctity of private property.

There is no world State to enforce it. No doubt the Hague Court has jurisdiction to construe it, but it has no power to make any party conform to it. Yet States do settle most of their disputes without going to war. Furthermore, if a State is essential to protect one American's rights against incursion by another American, why is no North American State necessary to protect a Canadian's rights against incursion by an American? Canadians and Americans settle their disputes peacefully in Canadian or American courts, not in North American courts. So too with Argentinians and Uruguayans, Belgians and Dutchmen, Swiss and Austrians, and so on.

The system of private law and protection will work, it is contended, because unlike the State system, which may pretend to protect property, it will be truly built on the rock of the complete sanctity of private property. What is a market, if not a mechanism for the disposition and redisposition of private property rights? Given the sanctity of property, markets will arise for the supply of every element in it, be it protection or legal adjudication, and such markets will be as flexible as property requires, and as effective.

DISTINGUISHING OLD AND NEW ANARCHISTS

Since anarchism arouses instinctive hostility in the minds of the great majority of us, let us look more closely at the differences between the new anarchists and the old. With some variations and exceptions, the old anarchists were distinguished by the following: a) a hatred for private property, b) an intoxication with utopianism, and c) an addiction to violence.

Though Marx had the greatest contempt for the anarchists, their hatred for private property, at least in the means of production, was akin to his. The State was power, evil, maleficent power. Its power rested on the command over property of the ruling classes, royal and bureaucratic, aristocratic, or bourgeois. Hence freedom and brotherly love, sweetness and light, could come only when property was abolished. In naiveté and analytical incompetence this could hardly be surpassed. But it is the kind of trap into which those tend to fall who view societies as wholes instead of looking inside them to see what the individuals who make them up are doing and seeking. In the old anarchists there was not a glimmering of understanding of how the myriads of decisions applying scarce resources to limitless human wants could be taken without property rights and in the absence of State power. But of course they were not conscious of the problem, for it was wished away in their utopianism.

Of all the aberrations of the human mind, utopianism is surely intellectually one of the most contemptible and in its results one of the most destructive. Dreams of a perfect world in which all men love each other and in which Adam's problems after the expulsion from Eden melt away, are the effluvia of sick minds, all the more dangerous because they often seem to be noble (and in rare cases actually are: e.g., Kropotkin, who really was noble and saintly, one of the very few anarchists who can be thus described). Because they wish away the problems of the world, utopians are angered to find that somehow the world remains a vale of tears. This can only be the work of evil men and their dupes. Hence the utopian, loving all mankind, is impelled to bring a sword to destroy those who stand in the way of the earthly paradise. As the paradise stubbornly refuses to materialize, he must, if he is an anarchist, continue forever to bomb and assassinate the managers of the world; or, if he is a socialist, he must become the all-powerful manager himself and destroy those who then refuse to be good according to his bidding.

Of all the aberrations of the human mind, utopianism is surely intellectually one of the most contemptible.

By its nature utopian anarchism attracts some innocent fools (e.g., possibly Vanzetti) but many men of profoundly evil propensities (e.g., probably Sacco). How hateful a man was Tolstoy, loving humanity in general but hating and terrorizing all around him, his wife, his mistresses, his children,[9] and his servants! Of course the man who loves humanity in the abstract but hates men in the flesh is a familiar type. We all know the Park Avenue socialist, who preaches equality in general but manages to enjoy his fortunate inequality while it lasts. His real motivation is hatred for others (and often a well-merited self-disgust), but he masks it with a spurious love for the poor and downtrodden.

Because the old-time anarchist was intoxicated with utopianism and in most cases addicted to a mindless violence, he was never able to take command of affairs. The only country where anarchism became a serious, and organized, political movement of any consequence was Spain, a singularly barren region for political enlightenment. But in the end the Spanish anarchists were no match for the Communists in intrigue and cunning, or for General Franco in organization. Hence since 1939 they have faded from the scene.

THE FUTURE OF NEOANARCHISM

With good sense the world rejected the old-time anarchism. Will it, or ought it, to reject the new? I shall argue that it will and it ought, even though the new anarchism is poles apart from the old. Yet I believe that the new anarchism will attract growing attention in circles both intelligent and free from the taint of utopianism. For the degeneration of the modern Western State has surely not yet run its course. "We shall tax and tax and tax and spend and spend and spend" (per Harry Hopkins, President Franklin Roosevelt's confidant and alter ego), and the end of this process is not in sight. Inflation will again and again be declared an enemy, but at the first whiff of corrective recession, it will be embraced as a friend and its rate will accelerate. The State will intervene more and more in the market and the citizen will find that his control over his own life will become less and less. In their bewilderment most citizens will acquiesce in a totalitarian solution, thus fastening the State even more tightly around their necks; but many will be attracted to the belief that the State is indeed as the neoanarchists describe it, and is indeed incur-

able.

Mistaken though I believe this belief to be, I welcome, with one qualification, the arrival of neoanarchism upon the intellectual scene. It has not merely added a new dimension to anarchism, which is of interest to students of the history of political thought, but it has also added a new dimension to the study of the State itself. Its intellectual foundations are substantial, and it merits respectful consideration.

My one qualification relates to Dr. Rothbard's unfortunate propensity to cast a benevolent eye upon the behavior of certain elements in the New Left, upon the hippies and the yippies, the flower people and their like; and also upon the violence of the antiwar demonstrators in the Vietnam days. This is an aberration and unworthy of Dr. Rothbard's admirable intellect.

A free society will no doubt have no laws against behavior which harms only the person concerned. But a good society will certainly have strong conventions against certain types of behavior, and its members will highly prize self-restraint as a governor of their behavior. The idea that liberty means not merely that men are to be free to do what they will, but also that they are right to do so, is a naive misconception. If it were followed through, it would produce an unfree society. As Burke said, "Their passions forge their fetters." As for the Vietnam War, Dr. Rothbard would do well to bear in mind that in our small world his private protective agency may some day have to defend him even farther away from his home than Vietnam.

THE FAILURES OF NEOANARCHISM

Though I welcome the arrival of neoanarchism on the intellectual scene, however, I believe that it fails to survive close scrutiny.

First, in the world as it is the abolition of the American State, or of any State outside the Communist orbit, would make its people the immediate prey of one or the other of the predatory Communist powers. Thus neoanarchism is hopelessly impracticable unless it begins in the totalitarian States.

Secondly, it is unreasonably optimistic to believe that competition among the various protective agencies will perpetuate itself. On the contrary, there will be powerful incentives for one or other of the agencies to seek a monopoly by merger or by outright hostilities. Once it is a monopoly, it becomes a State. There is no sufficient consideration in the neoanarchists' presentation of how such a tendency would be thwarted. Indeed, since hope so often triumphs over experience, the people might even yearn for a monopoly. Were not the children of Israel in what the neoanarchists would describe as a happy state of anarchy under the Judges? And did they not pine for a king, despite prophetic warnings, thus ultimately getting the whips of Solomon and the scorpions of Rehoboam?

Thirdly, though the great majority of interhuman problems can be best resolved on a property basis, there are some that cannot. Consider neighborhood effects. Many, such as the rancher-farmer case or the upstream-downstream case familiar to us in the literature, can certainly be resolved by the definition of property rights and their market interchange. But take the case of air pollution by automobiles. Here it is impossible to identify either

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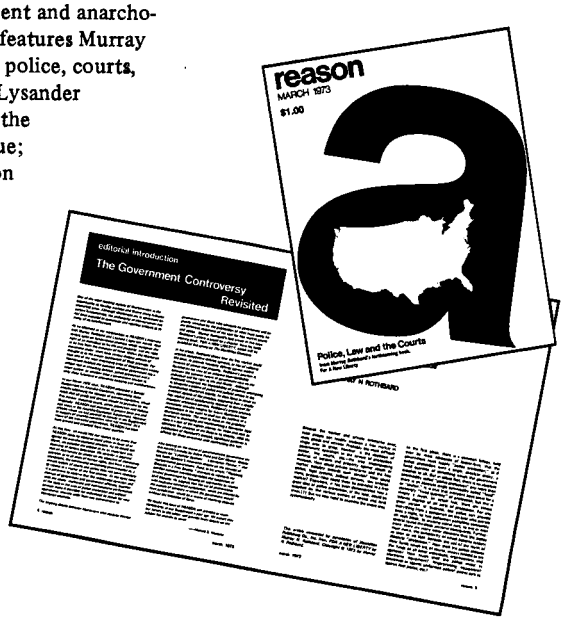

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the property right or the person infringing it. There are numerous problems of a similar type which are not susceptible of solution by the definition and interchange of property rights.

Fourthly, in the neoanarchistic view property arises legitimately when a man first takes possession of the original unused resources of nature and brings them into use, and property is legitimate only insofar as it can be traced back to such original possession and use. Obviously a vast array of property rights has arisen from violence to this principle. Many are descended from acts endorsed or blessed by the State in the past and are thus ipso facto illegitimate on this view, though they may take the form of a home, a plot of land, a share in a corporation's stock, or the like, which could continue to be recognized after the disappearance of the State. But much property is at present nothing other than a right to a share in what the neoanarchists regard as the State's depredations or power to depredate.

When the State disappears, the latter rights would also disappear, apparently without compensation. As for the former rights, the prescription is unclear. At times the commonsense view appears to be taken that they would be recognized, the new regime starting, as one would expect, from where it starts. At other times, however, it seems to be suggested that only those rights would be recognized which could be traced back to an original legitimate act of possession of a natural resource, which would open a Pandora's box of monumental proportions. As an illustration, take the case of the abolition of slavery. Accepting the principle that slave-owning is inherently illicit, a State might yet reasonably decide to compensate slaveowners for the loss of property which had been previously held to be lawful. This was the way of slave emancipation in the British Empire, but not in the United States. It is arguable that the British way was the better, and indeed might have been readily agreed to by the North if the South had not entered into armed rebellion. Of course the neoanarchists would say that the taxation raised to pay the compensation would be itself a further act of robbery. Be that as it may, if the State disappears, compensation is not possible. The slaves simply leave their masters and, if necessary, join a protective agency to defend their freedom. But what about the wealth created by the slaves' work before emancipation? Must this remain in the hands of the ex-slaveowners? The answer is unclear. This is exactly the case of a multitude of existing property rights which can be traced to some act of depredation in the near or remote past. Where there is a State, legitimacy has a clear meaning. Where there is not, it does not; and this can be a fatal defect in the system.

Fifthly, the projected court system appears to have a fatal defect of its own. In its proceedings there would be no subpoena power for, as Dr. Rothbard puts it, "Any sort of force used against a man not yet convicted of a crime is itself an invasive and criminal act which could not be consonant with the free society we have been postulating" (*Power and Market,* p. 4). Without the power to subpoena witnesses or documents no court can be effective, nor for that matter can justice be served. Yet this is not a defect easily remedied, for Dr. Rothbard is no doubt right to view the subpoena power as inconsistent with the principles of his system.

Sixthly, if high intelligence and eternal vigilance are necessary to keep the limited State limited, and if it is argued that such intelligence and vigilance will not be forthcoming, how will the intelligence and vigilance required for peaceful and beneficent anarchy be forthcoming? Although I have said that the new anarchists are poles apart from the old, there is here, I fear, a whiff of utopianism.

The truth is that the limited State, the government of laws, not of men, envisaged by the Founding Fathers of the American Republic, remains the hope of man. We know now that keeping the limited State limited is a very difficult task. We may agree with the neoanarchists that there are powerful forces which lead to its degeneration into the interventionist State and thence into the totalitarian State which are familiar to our generation. But after all, the American limited State remained essentially sound, despite the blemishes worked into it in the 19th and early 20th centuries by populist and kindred influences, for almost a century and a half. It was not until the poison of Roosevelt's New Deal entered its bones that it became truly degenerate.

A record of very fair success for a century and a half is not to be sneezed at. By contrast, anarchy has no record to attract us or inspire us. If we can choose anarchy, we can also choose a new and better try at the limited State. We can do better than James Madison and his colleagues, not because we are wiser than they, but because we stand on their shoulders. Thus we know now, as Madison could not know, what immense evils can arise from the undefined power to regulate the currency which the Constitution allotted to Congress. We can improve on that by establishing fundamental rules which would prevent the governmental inflation of the currency. In the fields of taxation, education, welfare, industrial regulation, and others, rules would not be insuperably difficult to devise effectively to remove the State's power to undermine the free society. Of course no constitution made by man will endure if there is an insufficient will to sustain it. That is why eternal vigilance is necessary. A constitution for a limited State is not a medicine which, once taken, will keep the polity of man forever sound. It needs to be taken again and again. As the English historian, the late F. S. Oliver, described it, it is an endless adventure. It is an adventure in which we may fail again and again, but it is not an adventure in which we must fail.

The way ahead is dark. The degeneracy of the modern State may lead us into totalitarian servitude. But if we have the resolution to choose freedom, our choice will be the limited State, not anarchy. ◻

It is unreasonably optimistic to believe that competition among the various protective agencies will perpetuate itself.

THERE'S MORE TO FREEDOM THAN SLOGANS

Everybody claims to be in favor of "freedom." Yet how many people really understand what it's all about? Consider the businessman who's all for free competition . . . unless his competition is named IBM or is Japanese. Or the mayor who wants plentiful transportation . . . but outlaws jitneys. Or the military leader who wants to defend freedom . . . using conscripted labor. Or the citizen who's all for free speech and press . . . so long as the material isn't "obscene." Each wants freedom for the things he considers important, but at the expense of somebody else's freedom.

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The Anarchist Reply

David Friedman

Professor Shenfield's essay on anarcho-capitalism, appearing as it does shortly after the publication of Robert Nozick's excellent *Anarchy, State, and Utopia,* gives me hope that the debate between libertarians who believe in little government and those who believe in no government at all is reviving, and on a higher and more cordial level than before. Professor Shenfield, like Professor Nozick, has taken the trouble to read the anarchists before writing about them, and his criticisms deserve serious attention. He raises six objections to the anarchist position, and I will deal with them in order.

Professor Shenfield asserts that an anarchist society could not defend itself against aggressive Communist powers. It is true that the defense of such a society, if provided at all, must be provided by a private organization. Lacking the taxing power of the State, such an organization would presumably support itself largely by voluntary donations, such as charitable organizations do today. Defense would surely seem, to most inhabitants of an anarchist community, at least as important as medical research or Boy Scout troops.

In addition, although it would be unable to charge most of those protected (due to the difficulty of protecting from nuclear attack only those particular people who had paid their protection bill, but not their neighbors who failed to pay), a private firm providing "national defense" could still sell part of its product. Isolated areas could be protected or not according to how much local businessmen could raise to pay for the protection. Residents of the anarchic area traveling or doing business abroad could be given the same protection a State provides its citizens, provided they paid an appropriate fee. In these and other ways, a defense firm could collect, not the full value of the services it provided, but some fraction thereof.

Whether such a firm could raise enough money to defend the United States against its present enemies I do not know. Nor do I know whether our present government will continue to defend the country successfully; while it spends a great deal of money toward that end, it does not seem to spend it very efficiently. In any case, neither anarchy nor limited government seems imminent at the moment. The resources required for defense vary widely from country to country and from time to time; even if it turns out that an anarchist society cannot defend itself in North America in 1976, that says very little about its prospects at future times or in other places.

Professor Shenfield argues that the private firms which protect the inhabitants of an anarchist group against crime would become a single monopoly, through merger or conquest, and that that monopoly protection agency would thus be a State. Protection agencies, like other firms, will find that they have some optimum size, above which additional growth makes them less efficient, not more. If this optimum size is so large that there are only a few, it is likely enough that, finding theft more profitable than protection, they will combine into a government, as Professor Shenfield fears. If, as I think likely, the efficient agency is about the size of the police department of a small city, then there will be thousands, and any one that tries to fight or buy its way to a monopoly will consume its resources long before it acquires significant power. The fact that a group of organizations could, by working together, take over a society, does not mean that they will. If it did, we would have been taken over long ago by an alliance of the regular military, the National Guard, and the Federal, state, and local police.

Professor Shenfield argues that a private system cannot deal with many problems, such as air pollution, caused by situations where one person's actions indirectly harm many other people. He apparently assumes that the only market solution to such problems is redefinition of property rights so that a resource, such as a river, that was previously unowned and hence inefficiently used acquires an owner or owners. This is, in many cases, the best solution, but it is not the only one. Market courts could also, like government courts, grant injunctions against those who injure others or consider class action to force polluters to pay for the damage they cause.

Many existing property titles are, as

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Professor Shenfield says, unjust, or at least highly debatable and unclear. The existing State can and does provide the well-defined set of titles required for the functioning of a market by simply declaring the status quo legitimate. Without a State, who would decide, and how?

In answering this question, I must part company with many libertarians, anarchist and nonanarchist alike. What Professor Shenfield is criticising is not anarchy, but the tendency of libertarians to assume that a libertarian society will be run by moral philosophers. Precisely the same problem exists for the libertarian limited State; it too must resolve questions of ownership which are, in terms of pure libertarian principle, difficult or impossible to resolve.

I, unlike many anarchists, assume that in an anarcho-capitalist society people will pay no more attention to philosophers than they do now. Such a society will be libertarian, not because everyone believes in libertarianism (although a greater popularity of libertarian ideas might make it easier to achieve such a society), but because a "market" legal system will, for economic reasons, produce an economically efficient body of law. It so happens that freedom is efficient—the value to me of being able to order you around is rarely as great as the cost to you of being ordered around. Going from coercive to libertarian law is on net profitable, so a system which produces law for profit will rarely produce coercive laws. (This is a very brief explanation of a complicated and important argument. For a longer and more detailed explanation see my *The Machinery of Freedom* [New York: Harper & Row, 1973], part 3, especially chapters 29 and 31.)

It is not profitable to carry libertarianism to the extent of deciding in court how British land titles should be revised to undo the effects of the Norman conquest. It is therefore likely that anarcho-capitalist courts will accept the validity of existing titles to property except where there is an alternative claimant with a clear and unambiguous case.

Professor Shenfield complains that anarchist court systems would have no power of subpoena and hence would be incapable of convicting the guilty. But surely the prosecution or the defense or the court itself could and would pay witnesses to appear—they do, after all, provide a valuable service. If this proves too cumbersome, protective agencies might ask their clients to agree in advance to provide any evidence they possess relevant to cases that come to trial. Where the evidence is known to be in the hands of the defendant, and he has made no such agreement, the court might be unable to force him to disclose it, but it could certainly draw inferences from his failure to do so.

Professor Shenfield's sixth and last point I do not understand. He apparently believes that it requires more intelligence and vigilance to maintain peaceful and beneficent anarchy than to keep a limited state limited. Why? The limited state possesses rights and powers denied to its citizens and controls vast resources which it uses for purposes that cannot, by their nature, be easily limited—witness the activities that can be and are presently defended as necessary for national security. How can any citizen, however wise, be sure when his State has crossed the invisible line separating the just commonwealth from the embryo leviathan? And if he is sure, what can he do about it?

Under anarcho-capitalism, employees of a protection agency who coerce others will be criminals and will be treated as such, if not by their agency then by their victims. And if an agency coerces its own clients, or wastes its resources trying to conquer its competitors, or even does an inefficient job, its clients have available the instant and individual sanction of the marketplace. They can—and will—take their custom elsewhere. ◼

David Friedman

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FOREIGN CORRESPONDENT

A COUP FOR INFLATION

Buenos Aires. On March 24 there was a coup d'etat in Argentina. Whether it was merely another step in an apparently irresistible decline or the beginning of a new era of order and prosperity is, still, an open question. To tell the truth, the situation previous to the "golpe" (as we call it here) was sensationally disastrous, in every possible aspect: a rampant inflation of incredible proportions (from March 1975 to March 1976 the official cost of living index grew 566 percent), a growing Marxist guerilla threat (both rural and urban), widespread corruption at all levels of government including the President herself and her closest advisers, a high degree of social unrest, total lack of order even at the police level and, lastly, a political void—the government was too busy trying to retain power to really govern. The last hope went away when Congress—dominated by a Peronist majority—rejected a motion of impeachment, out of a totally misplaced consideration of party "loyalty." After this failure—and others—of the political system, the coup seemed unavoidable, whether you liked it or not.

In the end, the armed forces, massively—without a single defection within their ranks or a single shot—took control of the country in a swift and precisely planned move, arresting the President and dozens of labor leaders, officers, politicians, etc., deposing all national, provincial and municipal authorities and announced their determination to achieve order, both in the social-political and economic realms.

The new Economy Minister—Mr. Martinez de Hoz, lawyer, part-time professor of agrarian law, landowner, president of one of the major private enterprises of the country and—to top it off—member of one of the traditional families of the social elite—said, in his first presentation, that if inflation is not stopped, by the end of this year it will reach a 4,670 percent annual rate. The major cause is the budget deficit: in the first three months of 1976 only 20 percent of public expenditures were paid with funds from taxes, the rest being met with pure printing of money.

This incredible deficit is the consequence of many causes: an irresponsible and grossly inefficient management, corruption, grotesque deficits of public enterprises, enormous increases in government employees (24 percent in the last three years!) and no monetary discipline at all. Of course, this rate of inflation means no savings, no investments, fleeing of capital toward foreign countries or to foreign exchange, no expansion of business, less jobs relative to more population, greater social tensions, in short, a CRISIS.

The new Economy Minister has proposed and started to implement the following policies: drastic reduction of the budget deficit, through a decrease in personnel, readjustment of the tax system and general austerity; progressive disappearance of exchange controls; almost total elimination of price controls; expansion of oil exploration and production with the assistance of foreign investments; an end to state monopoly of grain and meat exports; elimination of abuses and excesses in labor legislation and practices, and a general reduction of the public sector, coupled with a more efficient management of it.

Generally speaking, it is a private property, free-market sort of program, difficult to apply given the wild inflationary expectations, the fact that it is not a popular plan, and that major portions of the army do not seem to be entirely convinced about it. But its strength lies also in the fact that there seems to be no better alternative and by being the exact opposite of the previous policies (super-nationalist and statist).

The most adequate label for the program and the whole military government would be "conservative:" its civilian personnel come—predominantly although not only—from the right, "social conservatism" values and attitudes are highly regarded and acted upon among the military (film censorship now applies not only to pornography but, also, to other—cultural and political—aspects) and a few days ago an army general proudly announced that he had burned a mountain of Marxist literature due to its opposition to our "national being," whatever this may be.

Personally, I believe the total lack of citizen participation in government is regrettable. We are, in fact, at the mercy of a small group of well-wishing people who are more or less pursuing an economic policy I consider adequate, but the composition and direction of this group could very well change at any moment, without any choice for us not pertaining to it, than to obey, without much criticism, if any. This is the problem when you put your destiny in the hands of a "good" dictator (or of a group of "good" dictators): when they cease to be "good," you can do nothing. Also, the effect of yet another coup at the popular level—from the point of view of citizenship education—is terrible, increasing the already prevailing high degree of cynicism and despair. That is why I said, at the beginning of this column, that the coup could be merely another step into decline or, even more definitively, into a classic revolutionary situation, mature enough for an all-out socialist, Marxist alternative.

That is also why I believe that, despite well-founded reservations, there is no other choice than to wish success to the new government, do as much as one can to help, and hope that a few years from now we may begin again the difficult but in the long range better road of a popular government in the framework of stable money, minimum order, expansion of the economy and respect for individual rights. But, there is something we can say for sure, whenever that day may come: after this experience, Isabel Martinez Peron will be the last *woman* president of this country for many years to come, to the disgrace of feminist movements and sympathetic observers such as your correspondent.

N. GUILLERMO MOLINELLI

LUCIFER'S LEXICON
by L. A. Rollins

inferiority complex, n. A lowlier-than-thou attitude.

Klansman, n. A White Muslin.

labor union, n. An association of workers organized to advance the interests of the union organizers.

VIEWPOINT

JUSTICE INTO INJUSTICE?

In a recent question/answer session Ayn Rand said this of the Libertarian Party:

> . . . here is a Party which plagiarizes some of my ideas, mixes it with the exact opposite, with religionists, with anarchists, with just about every intellectual mystic and scoundrel they can find, and they call themselves libertarian and run for office. . . . I would say the worst of [any of the candidates in the major parties] are giants compared to anyone who would attempt anything so unphilosophical, so low and so pragmatic as this Libertarian Party. . . .

She went on and put forth the following about Alexander Solzhenitsyn:

> . . . lower than Kissinger, lower than the rulers of Russia, stands Mr. Solzhenitsyn. He is the worst public caricature of a monster that has emerged in this age, which has an awful lot of public caricatures and of unappetizing characters. . . . Solzhenitsyn, before you speak of him, or ask anything about him, please read the letter which he sent to the Soviet authorities shortly before he was deported. In it, that man claims, in effect, that he is a communist. He says so openly, only not in those words. He is against Marxism, he would like Russia to remain a dictatorship, but a dictatorship run by the Russian Orthodox Church. . . . In other words, he wants to take Russia back to the stage before Peter the Great. . . . He is anti-industrial. . . .

To start with, Ayn Rand has no basis for charging the LP with plagiarism. Plagiarism would only exist if the LP had (a) pretended that its members and leaders have learned nothing from Ayn Rand, and (b) given voice to her distinctive arguments for the truth of the political ideas expressed in its platform. But neither took place.

Libertarian Party members and leaders are well known to be indebted, at least in some part, to Ayn Rand's contribution to political theory. Obviously, however, party platforms are not scholarly papers in which footnotes are provided to refer readers to sources of the ideas being utilized. Anyone should realize this and no implication of pretense exists in the absence of such notes, especially when other publications are available in which those notes appear and which are clearly linked to the LP's position. Giving Ayn Rand credit—thus avoiding the alleged plagiarism—would be seriously misleading. The LP's stance only partly reflects Objectivist political theory. To the extent it does, the LP could have gained these ideas from other sources, since Ayn Rand is clearly not original in the conclusion of her political theory, and she is only partly original in the arguments she advances in its support. Finally—though this would be no excuse for plagiarism—Miss Rand gives no credit to others for her ideas, outside, of course, of some very general references to Aristotle. Yet studies of the history of ideas will show that many of her ideas and arguments are present in the works of such thinkers as Spinoza, Reid, Hume, Kant(!), and, more recently, Leo Strauss, to name but a few. Even where Rand makes reference to having benefitted from the ideas of others—e.g., Isabel Paterson, Ludwig von Mises—it is never clear just which of her views she considers unoriginal with her. (For a clear case of Rand's lack of originality, see Locke's treatment of national emergencies for ideas Rand explores in her essay "The Ethics of Emergencies," especially as they apply to the executive branch of government.)

On Solzhenitsyn Rand's comments are a mixture of truth and distortion. He is clearly no communist! True, Solzhenitsyn shows incredible naiveté concerning economics and the problem of economic stability and growth. (He flatly endorses the stance of the Club of Rome!) But does he really wish the Russian Orthodox Church to become dictator of Russia? Solzhenitsyn says "I myself see Christianity today as the only living spiritual force capable of undertaking the spiritual healing of Russia. But I request and propose no special privileges for it, simply that it should be treated fairly and not suppressed." (*Letter to the Soviet Leaders*, p. 57) He asks that all views, including Marxism, be permitted to enjoy the same liberty and that *all* be rid only of *state* support!

The *Letter* was written while Solzhenitsyn was still in the Soviet Union and is explicitly strategical: it aims to appeal to the Soviet leaders' "realism," i.e., it is directed to influence the Party leaders so that they might take *some* of the steps one might consider proper for a leadership of that sort to take but can only expect it to take slowly if at all. If an Alan Greenspan should join an immoral outfit such as the President's Council of Economic

TIBOR R. MACHAN

Advisors because a bit of his contribution *might* stem statism in the U.S., without justifying the conclusion that Greenspan is now a full blown statist, surely it is understandable that Solzhenitsyn should suggest policies to the *Soviet* leaders that would otherwise be intolerable. (Do read the *Letter*, dear reader, and see for yourself!)

My points above give no support to the LP or to Solzhenitsyn. The former's platform is muddied and often sloganistic. Some of its members already demonstrate the danger of modern politics, namely its promotion of haggling, powerhunger, as well as useless fanfare. But none of that

makes the LP a necessarily bad instrument for promoting liberty, especially to those who are limited in time and resources and haven't the talent to write *Atlas Shrugged.* In her disdain for the LP's membership Miss Rand is reverting to an attitude of mind found not in *The Fountainhead* or *Atlas Shrugged,* nor in her nonfiction essays, but in the now excised passages of *We The Living* (where political elitism received too eager endorsement). Contrary to the implications of those passages, others than the most brilliant, virtuous, and ambitious among us possess individual rights, too. They not only have the right but the responsibility to make those advances toward the achievement of a free society that they are capable of making, which means that the Libertarian Party, however immature and confused, can serve a proper function in our lives.

Solzhenitsyn is not my idol. He is a man who suffered as a Soviet slave and lived to tell of it eloquently. For this some praise is due. He has also given some warning to the West of what happens when liberty is neglected. However objectionable his views are in other areas, however influential these may become because American conservatives like William F. Buckley capitalize on them for shabby purposes, it serves no just purpose to denounce the man as a monster.

As many know, I am very impatient with sloppy, small-minded criticism of Ayn Rand's ideas, especially the kind that dismisses Objectivism on grounds such as Rand's opposition to a woman president—which is comparable to dismissing Aristotle for his belief in an unmoved mover, von Mises for his support of the draft, or Murray N. Rothbard for his utopian foreign policy analysis.

True enough, Rand has been shoved aside by some real losers in our era—e.g., Whittaker Chambers, a self-confessed ex-communist namby pamby; Russell Kirk, a self-professed "student of ghosts" and an insufferable moral relativist; as well as such bright shamtroversialists as Garry Wills and the intellectual fly-by-night William Buckley himself. Not to mention the libertarian pipsqueaks who fume that Ayn Rand isn't Murray Rothbard!

Despite the danger of joining such bad company—and I have already been notified that this is just the line of thought some will take when my column appears—it is important that Rand's injustice and bad judgment be identified. Coming from a source that has helped to identify the nature of justice and of sound judgment, these pronouncements Miss Rand makes could gain respect *or* a very bad name for *everything* she has done. It must be kept in mind that what Rand said about the LP and Solzhenitsyn is not vintage Rand! Perhaps her obscure and unjust views I have discussed would have lain low except for the present discussion. Still, as a student of the brilliant novelist/philosopher, I must protest this performance.

I only hope that her conduct will not deter newcomers from studying her works and taking full joy in her superb artistry. ◻

Tibor Machan's Viewpoint appears in this column every third month, alternating with those of Murray N. Rothbard and David Brudnoy.

BOOKS

LANGUAGE AND WOMAN'S PLACE. By Robin Lakoff. New York: Harper Colophon Books. 1975. 85 pp. $2.25.

Reviewed by JAMES D. McCAWLEY

Feminist activists have devoted an unusually large amount of their energies to matters of language: to publicizing respects in which language as it exists (especially the English language) allegedly fosters sexism, and to promoting reforms that are supposed to purge English of its sexism. Indeed, one of the most tangible effects that the feminist movement has had on American society so far is linguistic: the widespread adoption of *Ms.* before women's names.

Language reform is in many respects like urban renewal. It is easy for people to find causes for dissatisfaction both in cities as they are and in languages as they are, and to come up with ideas about how they would like things to be; and in both cases, those who clamor for change usually have little understanding of how the thing that they want to change really works (in particular, they view it as far more static than it really is), have badly misidentified problems, and have given little thought to what would happen if things were as they say they want them. Before there can be intelligent feminist language reform, there must be serious studies of the area that is to be reformed. Robin Lakoff's *Language and Woman's Place* is a major step in that direction.

Language and Woman's Place is an extremely perceptive and well-informed work, and equally importantly, one that displays a refreshing sense of proportion. Lakoff, who is associate professor of linguistics at the University of California at Berkeley, waits until page 40 before touching on any of the more celebrated areas of feminist agitation about language, having chosen wisely to concentrate on points that are much less widely known (many of which she was evidently the first to notice) but which are of more importance in understanding how language affects women and how the status of women is reflected in language. When she gets to the much-discussed matter of English pronouns (both the fact that English distinguishes a masculine pronoun and a feminine pronoun and the fact that the masculine pronoun is used in sentences like *Everyone should take his seat,* in which persons of both sexes are referred to), Lakoff says that she feels that "the emphasis upon this point, to the exclusion of most other linguistic points, by writers within the women's movement is misguided.... My feeling is that this area of pronominal neutralization is both less in need of changing and less open to change than many of the other disparities that have been discussed earlier, and we should perhaps concentrate our efforts where they will be most fruitful."

The "disparities" to which Lakoff refers include pairs of words that are generally thought to differ only in the sex of the person referred to (*bachelor* vs. *spinster; widow* vs. *widower; gentleman* vs. *lady*) but in fact have additional differences which reflect and perhaps reinforce respects in which women are at a disadvantage. Take the fact that you can refer to a woman whose husband has died as *John Smith's widow* but you cannot refer to a man whose wife has died as *Mary Smith's widower:* he is only *a* widower, not *her* widower. This, of course, is a reflection of the fact that in this society we assign women a name and a status through their husbands (she is Mrs. John Smith, and

when you are introduced to her, one of the first things you ask is "What does your husband do?"), but we don't assign men a name and a status through their wives (he stays Mr. John Smith, just as he was before his marriage, and you don't ask him "What does your wife do?" unless you have been told that she "does" something). Here the sexism of the language goes a step beyond that of the culture: you can't refer to Arthur Miller as *Marilyn Monroe's widower,* regardless of your views of the status of husbands and wives.

Lakoff's discussion of the word *lady* is masterful. She shows that *lady* is not just a "more polite" word than *woman:* note the difference in meaning betwen *She's a real lady* and *She's a real woman,* and how ludicrous it would sound to say *Ladies' Lib* or *Ladies' Strike for Peace. Lady* means not "woman" but "woman in a standard feminine role." This is why it is insulting to a female M.D. to speak of her as a *lady doctor:* it implies that her medical practice falls into the area of triviality that is the stereotype of proper activities for women and thus implies about the same estimate of her medical skills (though not of her bedside manner) as would *girl doctor.* Similarly, a serious art gallery may hold a *one-woman show,* but never a *one-lady show.*

The differences between how men speak and how women speak that Lakoff discusses are much less striking than those between words referring to men and words referring to women. Aside from a couple of usages that are pretty well confined to the speech of women (such as *divine* and *adorable* in exclamations like *What a divine idea!*), the differences she cites are things that occur in the speech of both sexes but which one sex is freer to use, in the sense of being less open to ridicule or censure, or open to less severe censure. Women are free to use highly specific color terms (*magenta, heliotrope,* etc.) which men are "permitted" to use only when they are "specialists," such as a stamp collector talking about stamps or an interior decorator talking about paint. (The laughter aroused when a man speaks of magenta drapes is comparable to the irritation a dentist feels when a nondentist patient speaks of the buccal surface of the upper right lateral incisor: in either case the speaker's language expresses intimacy with a subject that he is not "entitled" to treat with familiarity—it's as if he had said *tu* to someone he ought to address as *vous;* but why is it that just being a woman entitles you to say *tu* to the world of colors?) If a 10-year-old boy calls you a motherfucker, he may get spanked, but he won't be sent to a psychiatrist; however, if a 10-year-old girl calls you a motherfucker, ...

Lakoff indeed attempts to relate the fact that far more women than men are psychiatric patients to the "double bind" that she sees male/female language differences putting women in: women are expected to "talk like ladies," but a person who talks like a lady removes herself from serious competition for respect as a person. The term "double bind," referring to a situation in which an authority imposes a requirement on someone but will punish him if he complies with that requirement, is due to Gregory Bateson, who sees double binds as a cause of schizophrenia. Lakoff doubts that the double bind of male/female language differences leads to real schizophrenia, but she sees it as a respect in which "society is putting a far greater strain on its women than on its men;" she holds that "fighting the paradoxes a woman necessarily faces tends to break down a woman's mental resources; therefore a woman is more apt to run into mental difficulties and, when she faces real stress, to have fewer inner resources left to overcome her problems."

Lakoff could have made a better case for these points if she had widened her perspective here. The differences that she cites between male and female speech are much smaller in scale than those between ghetto black English and "standard" white English, or between many regional dialects and the more prestigious dialects, and it might seem at first glance as if her position implies that blacks and Appalachian whites should have 10 times the psychiatric problems that women do. However, there is an important difference, namely that when a black or an Appalachian white wants to become a part of urban white society, acquiring urban white English will help him to do so and will not cause him to be ridiculed behind his back (or at least, not by urban whites). Learning a prestige dialect may cause him problems by antagonizing or alienating his relatives and old friends, but those problems aren't a double bind; whites may penalize a black for being black, but they don't penalize him for trying to talk and look like a white. Moreover, as was pointed out eloquently by Dr. Peter Breggin in the August 1974 REASON interview, women who visit a psychiatrist for help in replenishing their "mental resources" are likely instead to be administered a mental coup de grace; women have far more to fear from male psychiatrists than from male gynecologists. And women whose problems are connected with an attempt to break out of a stereotyped female role are particularly liable to become victims of a psychiatrist.

One major gap in Lakoff's book is comparison between English and other languages. While she includes a little material about Japanese, she does not get into much detail, which is a pity, since Japanese has much more striking differences between male and female language than English does (for example, only women may omit the verb *to be*) and thus provides an excellent opportunity for testing hypotheses about how language is related to sexism in the culture. (Do women form the majority of psychiatric patients in Japan too?) Some popular beliefs collapse in the face of facts about other languages; for example, Hungarians and Turks don't appear to be any less sexist than Americans despite the fact that their languages don't distinguish between *he* and *she.* However, doing a solidly based cross-linguistic study would take a long time, and Lakoff probably has done the best thing by publishing her fairly extensive observa-

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tions about English now and thus making other investigators aware now of questions that they should raise in investigating other languages.

I will close this review by calling the reader's attention to an interesting point of contact between feminist language reform and a libertarian author who is not normally associated with feminism. A potent way of defusing any sexism in the use of *he* as a "common gender" pronoun is to be found in Harry Browne's *How I Found Freedom in an Unfree World.* Browne adopts the policy of *consistent* use of *he* as a common gender pronoun: he uses *he* whenever there is any chance that persons of both sexes might be included. Most persons use "common gender *he*" inconsistently, by switching to *she* when "typically" a woman is referred to (as in *A teacher should respect her pupils' intellects*), that is, they switch to *she* when a "literal" interpretation of *he* would conflict with stereotypes of sexual roles. Browne's consistent use of common gender *he* results in sentences where an interpretation of *he* as "that male person" would either conflict with the stereotypes (*A teacher should respect his pupils' intellects*) or impose a female point of view (*You shouldn't worry if your spouse spends a lot of time with his parents*), which means that male chauvinists can't maintain their chauvinism and still interpret all "common gender *he*" as implying "typically male." By contrast, saying *he or she* (as some feminists have recommended) fosters the standard sexual stereotypes in a way that saying *he* does not: if you say *he or she,* you imply that women aren't included unless they are specially mentioned, and you make it easier to talk about cases where only one sex is included than where both are. Browne's solution to the problem of sexism in common gender *he* amounts to an application of Gresham's law. A *he* that is really unspecified as to sex would drive out of circulation a *he* that meant "typically male," because it would be "on a par" with it but would have less content; the more that people are confronted with instances where *he* has to be interpreted as covering both sexes, the harder it will be to convey "typically male" by using *he.* ◻

James D. McCawley is professor of linguistics at the University of Chicago and is working on a book entitled The Eater's Guide to Chinese Characters.

DEATH OF A MAN. By Lael Tucker Wertenbaker. Boston: Beacon Press. 1974. 181 pp. $7.50.

Reviewed by TIBOR R. MACHAN

This work does not contain anything of political or economic interest. But then matters other than political ought to be of concern to readers of this or any other journal. And with *Death of a Man* one simply cannot talk about libertarianism (or any other "ism," for that matter). It is not a political book by any means—yet everyone should read it.

Some people may not be interested in philosophy, politics, economics, and so the books usually reviewed in REASON may not do much for them, however great they are. But is there anyone who has absolutely no interest in the issue of death? Staying alive and well itself discloses some concern with death—in one's success of avoiding it and forestalling it. So while this book is not for libertarians as such, it is for everyone and, thus, also for libertarians.

Lael Wertenbaker has written such a beautiful book about the last months of her husband's life after he learned he had cancer, that writing about it, for someone like myself, is almost an embarrassment. If it were not for my conviction that this is a great book and that many who read it will be completely overwhelmed by it, I would not attempt to review it. Ms. Wertenbaker writes so beautifully, and her way of presenting her husband, the late Charles Wertenbaker of Time & Life publications, through her impeccable and completely natural language, is so lively, so "unmorbid," that while the subject is often death, little of the negative emotional accompaniment of that subject enters the experience of reading this book. Instead we get a *romantic* narrative. What the reader will witness through this work is an extraordinary, totally unpretentious story of a good man who must die (and knows it) of a very painful and physically disabling disease. The disease turns out to be the backdrop, however, for a rich and encouraging final act in the life of a wonderful couple.

Instead of continuing with my unartful emulation of this book, let me simply say that although my wife asked that I keep my reading to myself—ordinarily we read passages of good works out loud—I simply could not contain my eagerness to share with her some of what comes through in this glorious story. I can guarantee that anyone with a love of life will experience similar responses. (I will go so far as to claim that those who do not like this book cannot have a full appreciation for living.)

Finally, dying will come our way sooner or later, and to many of us it will not be a comfortably quick process. I am certain that from the example of Charles ("Wert") Wertenbaker's confrontation with this time of his life, the attitude one may have toward dying could only improve. I am not one who, like some Existentialists, considers dying *the* most important experience of human life. But there is nothing to be gained from remaining ignorant of the prospect of death and a good deal learned from witnessing what might be considered a good death. "Dying is the last thing I'll have a chance to do well . . . I hope to hell I can," said Wert to his wife when they knew that he would die soon. This book shows, among many other things, just how well dying can be done, provided one has learned how to live well, also. ◻

Senior Editor Tibor Machan teaches philosophy at SUNY-Fredonia, and is currently a fellow at the Hoover Institution, Stanford, California.

COMING NEXT MONTH

REASON for September will feature articles on a number of current issues. William Havender demolishes the government's case for quotas and affirmative action, while E. C. Pasour draws out some of the implications of national economic planning, and Murray Weidenbaum analyzes the case against government energy subsidies. Also in the issue will be Eric Mack's discussion of the State versus society, George Morrone's discussion of the magical worldview ("The Crock in the Cosmic Egg"), and Thomas Hazlett's delightful appreciation of the late H. L. Mencken. The September issue will also include a review of *The Gods of the Antenna,* David Brudnoy's Viewpoint, John J. Pierce's science fiction column, and all of REASON's regular columns and features.

MOVIES

• What *The Bad News Bears* did for Little League baseball of the 1970's, THE BINGO LONG TRAVELING ALL STARS AND MOTOR KINGS (whew!) does for "Negro baseball" of the 1930's. Set during the final years of major league baseball's "color line," the story chronicles the adventures of a traveling all-black team, led by the redoubtable Billy Dee Williams in his best role ever. With the help of his star player, James Earl Jones, Williams signs up the top black players for his road show, much to the dismay of the unscrupulous owners of the nation-wide Negro league. The All Stars quickly discover that their brand of baseball is "showbiz," and soon they are hamming it up in some of the best comedy sequences this side of the Harlem Globetrotters. They are also forced to fight the underhanded tactics of league agents who have been sent to break up their team. The climactic battle comes in a no-holds-barred, winner-take-all game between the league champions and the All Stars. Raucous, rowdy and fast-paced, *The Bingo Long Traveling All Stars and Motor Kings* is entertaining from beginning to end. Rated "PG."
—Charles F. Barr

• TUNNELVISION, a fantasy about what television might be like in 1985, proves that bad taste is not necessarily good satire. Chevy Chase, of *NBC Saturday Night* fame, leads a troupe of relative unknowns in a series of uneven skits designed to show what television might be like without censorship. It's an interesting concept, if not original: *The Groove Tube* pioneered the idea last year with considerable wit and style. But *Tunnelvision* settles for trite and obvious kitsch: an ad for a career in proctology, an insult comedy designed to offend every minority, and a game show in which a husband and wife race to see who can be the first to fart. The whole enterprise appears to give aid and comfort to those guardians of public morality who claim that unrestricted television would become a cesspool. A few of the skits click, but most are at the mediocre level of the average television variety show. The movie is loosely tied together by a Senate hearing called to investigate the Tunnelvision network. Perhaps unintentionally, some of the best parody occurs here: the grandstanding politician vs. the suave, smooth-talking network executive. The remainder of *Tunnelvision*, for all its pretensions, is hardly more outrageous than what viewers can see any night of the week on *Mary Hartman, Mary Hartman.* Rated "R."—C.F.B.

• Because there is much to admire in Bob Rafelson's STAY HUNGRY, it is all the more disappointing that the film falters so badly. Jeff Bridges gives another outstanding performance, in his best role since Junior Johnson in *The Last American Hero*, as the scion of a Southern family whose name has been synonymous with Birmingham industry for generations. Following his parents' sudden death in an airplane crash, he finds himself at loose ends, resisting his uncle's gentle prodding to enter the family business and drifting aimlessly while trying to decide what to do with his life. An ill-considered business venture with some unsavory land developers brings him into contact with a downtown gym where he encounters Sally Field, a tough little hometown girl who has had to make her own way, and Arnold Schwarzenegger (a former Mr. Universe), who is in training for the body-building contest that climaxes the film. There are some very affecting scenes as the relationship between Bridges, Field and Schwarzenegger unfolds, but the film suffers from Rafelson's lack of discipline. The body-building contest, which degenerates into a side show in a jarring shift of tone, is awkwardly tacked onto the plot as an excuse to display Schwarzenegger's grotesque body. Equally debilitating is Rafelson's fatal attraction to a cliche. The film at bottom equates having wealth with unfeeling stupidity, and avoiding material comfort ("staying hungry") with finding true happiness. In spite of this sophomoric silliness, Sally Field is excellent in an uncharacteristic role, proving herself an actress of considerable range and depth, and Arnold Schwarzenegger, when he keeps his clothes on, is very appealing in his screen debut. As for Jeff Bridges, he has yet to appear in a film that is not worth seeing if only for his fine, sensitive acting, and *Stay Hungry* is no exception. Rated "R."
—James F. Carey

Jeff Bridges and Sally Field consider their relationship in STAY HUNGRY.

SPOTLIGHT

Some people consider a "libertarian politician" to be a contradiction in terms. They argue either that (a) any legislative action must involve coercion, or (b) even a libertarian would be corrupted, once elected, and become just another politician. Nevertheless, an active refutation of these views is alive and well in the Louisiana legislature: Louis "Woody" Jenkins, second-term representative from District 66 (North Baton Rouge). Though elected as a Democrat due to Deep South political realities, Jenkins freely identifies his political philosophy and positions as libertarian.

What can a libertarian legislator actually do? The familiar saying "No man's life, liberty, or property is secure while the legislature is in session," suggests an important role: working to defeat measures that would infringe on these rights. In just his first year in office, Woody Jenkins voted against 8 major and 8 lesser tax increases, and voted in favor of 9 tax reduction measures. He also voted against 18 measures that would interfere with or expropriate private property and 25 that would harass or manipulate free enterprise. He also supported a variety of measures to expand economic freedom (most of which failed to pass), e.g., to repeal state milk price-fixing, legalize the practice of chiropractic medicine, allow beauticians to cut hair as well as give permanents, repeal Sunday closing laws, and legalize Sunday horse racing.

In addition to voting down increases in taxes and regulation, and voting for their opposites, it is also possible to research, draft, and promote legislation to expand freedom. One of Jenkins' initial successes was a bill to enact safeguards for persons who might be committed to mental institutions. Other early successes included a provision permitting a modest tax credit for parents of children enrolled in private schools, and the consolidation of 59 health-related state agencies. Some of his proposals didn't get as far: to require all state colleges and universities to become self-sustaining within 10 years, to make Federal income tax payments deductible in figuring state income tax, to abolish the "crime" of vagrancy, and to abolish the doctrine of sovereign immunity.

But Jenkins' first really large impact began in his second year in office (1973) when he became a delegate to the state's constitutional convention, charged with rewriting an archaic 1921 constitution. He got himself assigned to the Committee on Bill of Rights and Elections, and proceeded to lead the drafting of the Louisiana Declaration of Rights, which became Article I of the new state constitution. Members of the Committee, under Jenkins' guidance, read works by Rand, LeFevre, Hazlitt, Friedman, and others as background, and produced a document firmly embracing the concept of *individual* rights—in contrast to the collective-rights philosophy of the 1921 constitution.

Reviewing Jenkins' record, one wonders how such an outspoken defender of individual liberty managed

LOUIS (WOODY) JENKINS

to get elected. Part of the answer is that Woody Jenkins is an outgoing, popular, hometown boy who made good. He was president and valedictorian of his high school class, graduated third in his class (in journalism) at LSU, was a radio DJ in high school and a television newscaster in college. And at 19 he and his wife Diane founded a weekly newspaper, the *North Baton Rouge Journal.* Thus, when he received his J.D. from LSU Law School, switched his registration from Republican to Democrat, and campaigned on an anti-big-government platform for a seat in the legislature, it was no surprise that Woody trounced four opponents with 66 percent of the vote. In 1975 he was unopposed for reelection to a second four-year term.

To gain the respect of his colleagues and keep the support of his constituents, Jenkins does his homework. Staff assistant Robert Bakhaus notes that Woody's knowledge ot the legal and political situation in Louisiana is "encyclopedic," and adds, "He is a walking library of Louisiana lore, law, and necessary reform and repeal." He is also an expert tactician. Last year when a bill to bring water well drillers under state regulation was under discussion, Jenkins got the bill laughed to death by proposing that divining rod operators be included in its provisions, and that state standards he set for divining rods. "Right now anybody can just pull a forked twig off a tree and use it for a rod," Jenkins intoned with a straight face. His amendment passed, and the House then killed the entire bill.

Today, well into his second term, Jenkins continues to take on new causes. He has made well-publicized visits to state mental institutions to focus attention on the plight of those committed by their relatives because they are eccentric. The Louisiana ACLU has belatedly hopped on Jenkins' bandwagon on this issue. He is working to prevent state employees from lobbying on state time. Among his pending bills are one that would eliminate the present motorcycle helmet requirement and lower the compulsory school-attendance age from 16 to 14. He is also planning efforts to add None-of-the-Above to Louisiana ballots, and to institute a voucher system for public schools.

Where will he go from here? At 29 Woody Jenkins has many years ahead of him. By serving on the boards of the National Taxpayers Union and the Heritage Foundation, he gains exposure to national issues while continuing to grow in political experience. He's not saying how soon, but nobody will be surprised when Woody Jenkins becomes Congressman Jenkins (D., Louisiana).

Readers are invited to nominate persons to be featured in this column. Send details to Spotlight, c/o REASON, Box 40105, Santa Barbara, CA 93103

RETHINKING THE INCOME TAX

DAVIS E. KEELER

Is the Federal income tax, as it is presently conceived, compatible with a liberal, democratic society?

Our present income tax is only about 65 years old, and in its present form much less than that. It is to be expected that our experience with the system should point out implications that were unsuspected at an earlier time. I wish to urge that we consider the totality of the political cost of this system and ask if we should not consider some other system for raising revenues, one that is less costly in terms of individual liberty and less intrusive of human privacy and dignity.

We might start with compulsory testimony, not because it is necessarily the worst, but merely because it is the most obvious. Each person who has had income, whether a tax is due or not, is required to identify himself to the government and testify, under penalty of perjury, to various details of his conduct. He is required to keep certain records of his activities and present these for inspection at the demand of a petty official. If he has derived income from an activity currently considered illegal, he is required to report it, and thereby confess to the illegal conduct. Thus, the prostitute is compelled to confess her conduct, while the rapist is not.

The enforced disclosure of the tax return is not limited to the particular office enforcing the tax law, for once the data is in government hands, it tends to be available to other governmental agencies for their own purposes.

To insure compliance, an elaborate system of recordkeeping is required, whereby almost all transactions involving the exchange of money are recorded for potential government inspection. These records may disclose not only weekly wages but also contributions to the Black Panthers. As one writer remarked, these make possible the maintenance of complete financial dossiers on all citizens, dossiers which are readily available through data banks keyed to social security numbers.

The "personal dossier" phenomenon is a function of the progressive nature of the tax, since it is necessary to have access to the cumulative records of an individual in order to apply the progressive tax.

For administrative convenience, most of these records are merely kept by the private institution required to record them, but others, thought by the government to be more interesting, are required to be reported, that is, brought directly to their attention. In the case of third party record keepers, such as banks, the party is required (without pay) to inform on the taxpayer. This represents a regularization of the traditional paid informer system, which has also been retained.

In order to expedite the gathering of revenue, there are draconian collection procedures whereby property may be summarily seized at the instance of a minor official to collect taxes alleged but unproved before any court or independent body. The ruin attendant individuals who are the target of such procedures, either through mental anguish or loss of property or disruption of business, is of course beyond any redress, for the official's acts are clothed in sovereign immunity.

The aggrieved taxpayer, whether the subject of these medieval collection procedures or in the course of a simple civil dispute over taxes due, is denied the intervention of a court through the Anti-Injunction Act, which provides (as its name suggests) that injunctions shall not be issued to restrain the collection of a disputed tax.

The taxpayer is further denied the guarantee of trial by jury, unless he consents to pay the tax claimed due (which may of course involve a serious financial burden, for which he cannot recover) and goes to court as a plaintiff, *i.e.*, as one who must bear the burden of disproving the government's claim.

The individual is, in fact, denied any prior independent judicial determination of the government's claimed taxes, unless he complies with highly formalized procedures to obtain a hearing before a "court" constituted by the very arm of the government which is assessing the tax.

These denials of prior judicial scrutiny of the tax assessment are thought necessary in dealing with the large number of individual tax collections. Otherwise the government would become bogged down in a sea of litigation in the ordinary course of tax collection.

Patterns of economic interaction are astoundingly complex, and any effort to determine the income derived by such interactions is necessarily also complex. The Byzantine intricacy of the Internal Revenue Code is not the result of human perversity; it necessarily follows from the task required of it—*i.e.*, the taxing of income.

It is precisely the attempt to arrive at a fair determination of *income* out of the intricate and continually shifting pattern of a human economy that renders the tax law so complex.

The complexity of the law creates uncertainties which in turn give advantages to the government in dealing with taxpayers. For example, this writer was told by a director that many film stars were persuaded to make public service spots promoting savings bonds by the threat of an unfriendly audit. The political leverage available to the government through the rigorous administration of the tax laws against certain disfavored persons was, of course, highlighted by the Watergate hearings.

Even among persons whose affairs are relatively uncomplicated, this complexity creates an atmosphere of uncertainty and fear of the government audit, as the taxpayer can never be sure that he has complied with the law's manifold demands.

The attempt to tax such a dispersed and diverse base as "income" requires reliance on self-assessment, whereby each taxpayer is required to report the various details of his financial conduct and calculate his own tax. In order to make this process work, it is thought necessary to have severe criminal and

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publisher's notes

• **PRICE INCREASE:** Effective August 17, REASON's prices will be increased. Our new subscription rate will be $15 per year. The new cover price will be $1.25 for regular issues, $2.00 for the Book Review issue, and $3.50 for the Financial issue. We dislike having to increase our prices, but our costs continue to increase and we are not yet operating in the black. Present subscribers may renew their subscriptions early in order to take advantage of the *present* special renewal rates ($11 for one year, $20 for two, and $27 for three), but such orders must be received prior to August 17, 1976. Gift subscriptions may also be obtained at the special rate of $11 for a year's subscription, if your order reaches us by August 17, 1976. Please add $1.50 per year for each subscription to be sent outside the U. S. We'll send a gift card in your name to each person on your list.

• **NEW ADDRESS:** REASON has a new mailing address. Effective immediately, all correspondence and subscription orders should be sent to REASON, P.O. Box 40105, Santa Barbara, CA 93103.

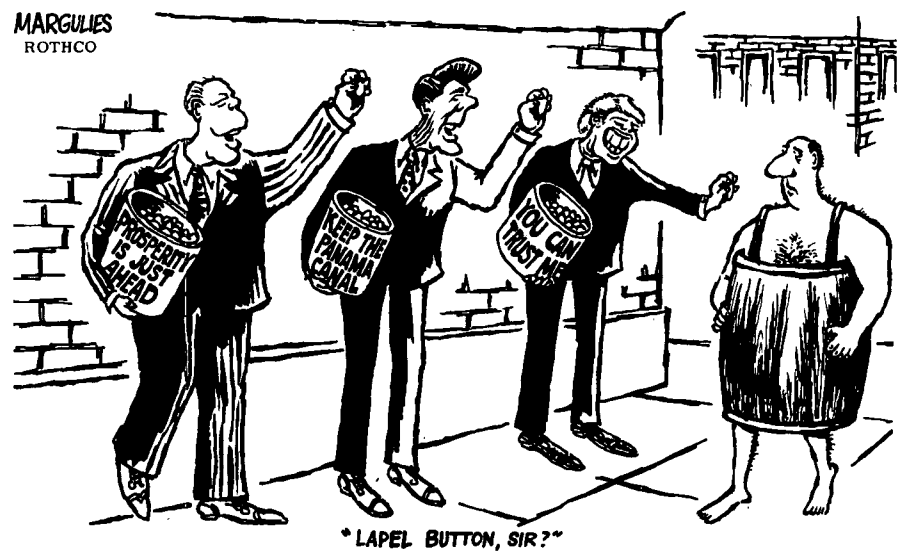
• **EDITORS' ACTIVITIES:** Here is an update on some recent activities of REASON's three principal editors.

Robert Poole, Jr. was recently elected treasurer of the Association for Rational Environmental Alternatives (AREA), the national organization dealing with urban and environmental issues from a nongovernmental perspective. He continues to give presentations on the private enterprise Rural/Metro Fire Dept., Inc., most recently to several regional meetings of the meetings of the California Libertarian Party and to a local Rotary Club luncheon. Poole has just been selected as coordinator for the Santa Barbara County Juvenile Justice Task Force, whose job is to develop a master plan for juvenile justice in the county. He is also working as part of a consulting team studying the correctional system requirements for Alameda County, California over the next 25 years. In addition, he has written a book on reducing the cost of local government, to be published this summer by Reason Press, under the sponsorship of the National Taxpayers Union.

Editor Manuel S. Klausner is chairman of the Libertarian Law Council (LLC), which meets bimonthly in Los Angeles, and he has been active on several LLC projects including presenting a statement to the California State Bar and Los Angeles County Bar Association concerning a proposed pilot program on lawyer advertising, and assisting the National Organization for the Reform of Marijuana Laws in a suit challenging the constitutionality of California's marijuana laws. Klausner recently debated a leading spokesman from the United Physicians of California on the medical malpractice crisis before the LLC, and he has spoken on the malpractice insurance issue before regional meetings of the Libertarian Party. Klausner's piece "What's 'Ethical' in Banning Lawyers from Advertising?" was published as a lead feature in the April 16 issue of the *Metropolitan News*, a daily legal newspaper in Los Angeles.

Senior Editor Tibor R. Machan has recently presented papers before numerous organizations, including the World Congress of Philosophy of Law and Political Philosophy in St. Louis; the International Congress in Logic, Methodology, and the Philosophy of Science in London, Ontario, Canada; a conference on F.A. Hayek at the University of San Francisco; a conference on Regulation at Hillsdale College's Center for Constructive Alternatives; Pepperdine University's Forum of the Business, Education and Media; and the Charles S. Peirce Congress in Amsterdam, Holland. Machan has also spoken before various groups, including the California Libertarian Party Convention and the Libertarian Alternative in San Diego. Machan has recently published articles in more than 10 publications, including "Ayn Rand: A Contemporary Heretic?" in *The Occasional Review*, Fall 1975; a review of Nozick's *Anarchy, State and Utopia* in the fall 1975 issue of *Modern Age;* and "The Debate on Planning" in the June 11 issue of *National Review.* Machan is also giving a bimonthly seminar in philosophy and political theory in Santa Clara, CA.

• **FALSE CLAIMS:** A first-year law student, Alan Hollander, filed suit recently under the century-old False Claims Act against Rep. William Clay (D., Mo.). The suit alleges that Clay on "numerous" occasions submitted "ficticious" travel vouchers seeking reimbursement for trips he couldn't have made. The suit was filed after a *Wall Street Journal* story named Clay and other House members as filing false travel claims. A citizen filing under the statute is entitled to retain from 10 to 25 percent of any recovery (depending on whether the Justice Dept. joins the suit), and Clay could be required to pay double damages plus a $2,000 penalty for each false claim. The False Claims Act appears to be a potent weapon for libertarians. Politicians, beware! ◻



FRONTLINES

QUESTIONING REGULATION

The conventional wisdom about government regulation has begun to shift. The number of economic studies in the past dozen years which supports regulation nowhere nearly compares to the number of studies which demonstrate that the activities of regulators cost more than they are worth, suppress innovation, and protect the established interests at the expense of those who are not interested.

At a recent conference sponsored by the Graduate School of Business at the University of Chicago, *Prof. Sam Peltzman*. made the point that the academic economists have become almost unanimous on the subject of regulation—yet the regulatory agencies are flourishing. Why?

Peltzman's analysis identifies three groups involved in the regulatory process: (1) the general public, (2) the consumerists who believe that everything should be regulated, and (3) the industry involved. The first group pays, the third group receives, and the middle group believes that the opposite is happening because they can't see the fingers of the invisible hand—but they can see the press releases and lawsuits of the regulatory agencies.

This is the "political marketplace" in action. In the political marketplace, success depends upon keeping happy the greatest number of significant, well-connected citizens at the expense of the greatest number of the insignificant and unconnected. The greater the number of the former the more one's agency flourishes, and the greater the number of the latter the less is the average cost—therefore the less likely any of the suckers will notice or care.

The real issue, therefore, is the blind spot of those who don't notice or don't care and the outright ignorance of those who are active "in the public interest" without the facts at their fingertips.

The American Enterprise Institute, 1150 17th St., NW, Washington, DC 20036 has recently set up a new research center to study government regulation. Chairman of the advisory council of the research center is *Prof. Irving Kristol* of New York University, who reports: "The objective of the council will be to assure that a broad range of views regarding the appropriate role of regulation in the national life will be considered in the research program and that the research meets the highest academic standards."

The A.E.I. catalog, which is free on request, has a large number of excellent research studies available in pamphlet form, often at no charge, and the overwhelming thrust of the material is libertarian. The A.E.I., however, as the statement by Kristol indicates, finds it most effective to avoid any obvious political slant. The tactic is to let the results of research speak for themselves. After all, if the libertarian answer is correct, the even-handed pursuit of truth will arrive at it. Much depends, however, on asking the right questions. It was by raising certain kinds of questions and issues relating to "social justice" and "wealth" that popular support of capitalism was destroyed over the last hundred years, and it will be by raising questions about the economic sense and nonsense of regulation that popular support of such notions will be influenced in the future.

The A.E.I. sponsors symposia, conferences, and panel discussions with representatives of all branches of establishment opinion. The "relevant range" of opinion is thereby moved inch by inch, from the respectable inside, toward the libertarian extreme. Twenty years ago, the "relevant range" was hardly wide enough to include libertarian proposals at all.

TEACHING QUESTIONS ABOUT REGULATION

At the University of Miami School of Law, the *Law and Economics Center, Box 248087, Coral Gables, FL 33124* has been highly successful in the last two years communicating the basic insights of economics to those who are involved in the regulatory process. The L.E.C. sponsors an ongoing series of Economics Institutes of two to three weeks duration, including an Institute for Congressional Staff Aides, one for Federal Judges, and one for Law Professors. A Legal Institute for Economists has been added to the programs of the Center. An important element of the approach of the L.E.C. is to treat economic analysis as a necessary contextual background for legal analysis. With a proper understanding of economic processes, for example, the "necessity" argument which justifies most proposals for regulation becomes unpersuasive.

The Law and Economics Center recently published a "Catalog of Research Issues for Understanding National Economic Planning," since the question of government planning has been raised in Congress by the Humphrey-Javits bill and the more recent Humphrey-Hawkins bill. The catalog weighs over three pounds and is 1,750 pages thick. Copies can be purchased from the L.E.C. for $36.00, and demand by government agencies, businesses, and libraries has been brisk. The catalog, by detailing the complexity of the question, makes the sorts of claims which socialists used to make about the efficiency of planning false on their face.

UNCONSTITUTIONAL INFLATION

Seemingly unrelated to the abovementioned Economics Institute for Federal Judges, 44 judges have filed a suit in the U.S. Court of Claims, *Williams v. USA, Ct. Cl. 2/11/76* for the restoration of salary lost to inflation. The U.S. Constitution, Article III, Section 1, provides that the salary of judges shall not be diminished during their term of office. This suit might prove to be the beginning of the end for the present monetary system, which hinges on the central proposition that Congress can pass a legal tender law under Article I, Section 8 ("coin money, regulate the value thereof"), and then debase the currency at the expense of the judges, as well as everyone else.

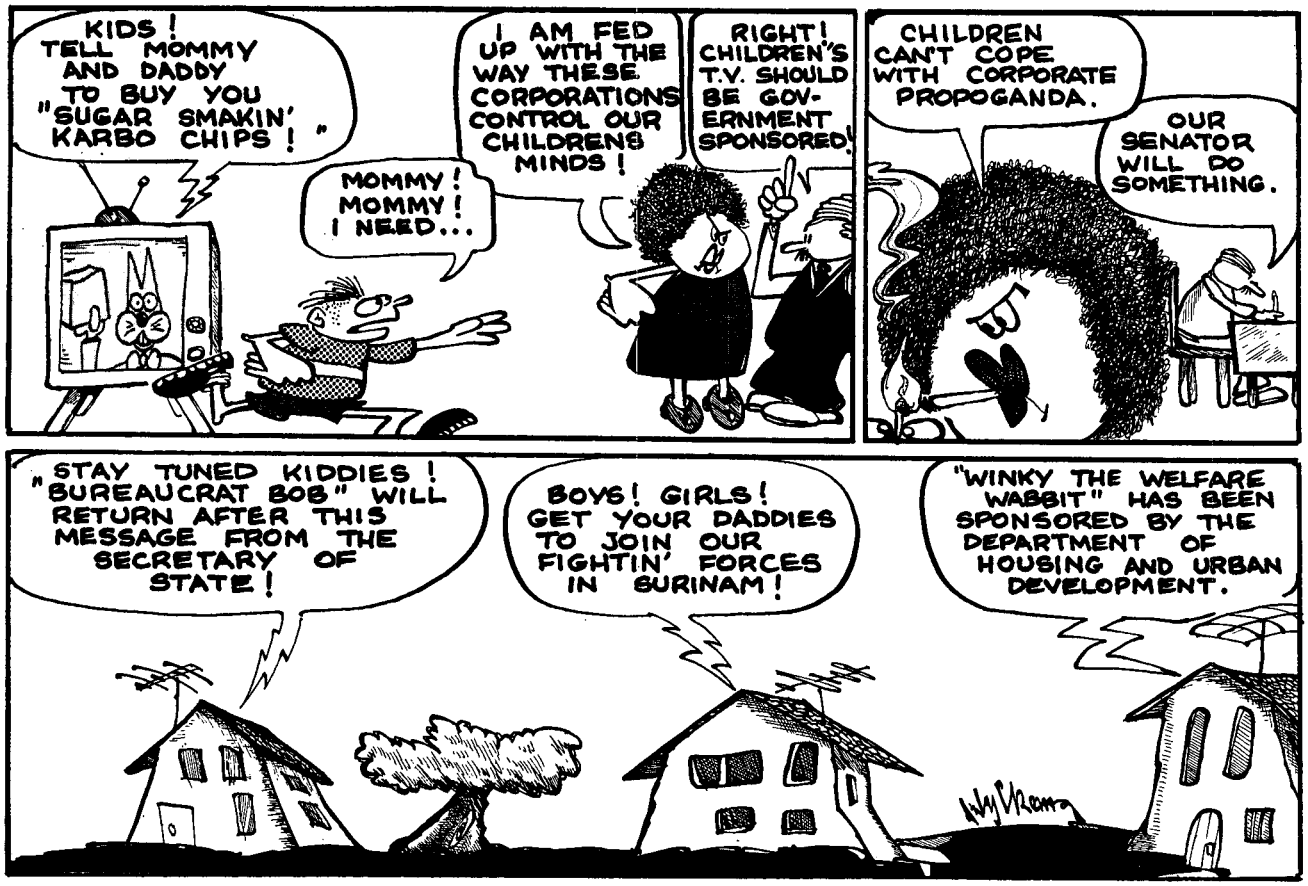
Perhaps next we will see a suit against some Governor or Legislature by State judges demanding payment in gold and silver coin, under Article 1, Section 10.

Last November, the British House of Lords, which serves as a high court of appeals much in the manner of the United States Supreme Court, ruled that a British textile firm had to pay a Swiss textile exporter in Swiss francs, rather than in British sterling. This decision overturned a procedural rule of several hundred years that British courts could only make awards in British money. The Lords observed that the exchange rates had fluctuated in the three years following the date of the contract, and that to allow the British textile firm to make payment in British money would be a manifest injustice, cheating the Swiss firm out of much of its purchasing power. If the British pound continues to fall on the foreign exchange markets, very shortly nobody will make contracts in British money—and the British money will cease to exist.

JOE COBB

rudebarbs

RANDALL K HYLKEMA


KIDS! TELL MOMMY AND DADDY TO BUY YOU "SUGAR SMAKIN' KARBO CHIPS!"
MOMMY! MOMMY! I NEED...
I AM FED UP WITH THE WAY THESE CORPORATIONS CONTROL OUR CHILDRENS MINDS!
RIGHT! CHILDREN'S T.V. SHOULD BE GOVERNMENT SPONSORED!
CHILDREN CAN'T COPE WITH CORPORATE PROPOGANDA.
OUR SENATOR WILL DO SOMETHING.
"STAY TUNED KIDDIES! "BUREAUCRAT BOB" WILL RETURN AFTER THIS MESSAGE FROM THE SECRETARY OF STATE!
BOYS! GIRLS! GET YOUR DADDIES TO JOIN OUR FIGHTIN' FORCES IN SURINAM!
"WINKY THE WELFARE WABBIT" HAS BEEN SPONSORED BY THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

MONEY

(continued from page 45)

civil sanctions to deter the slacker.

These are but a few illustrations of the ways in which our attempt to tax incomes has forced us to retreat from the liberal, democratic ideal of individual rights; yet each, taken by itself, is not felt to outweigh the social benefit of a viable tax system. What I would like to suggest is that, taken together, the costs of our present tax system—in terms of individual rights—are excessive.

Income is only one of a number of economic aggregates that is, or might be, taxed, and it is by no means the largest. As we have gained sophistication in these matters, we now realize that much income cannot be taxed at all and, in any event, we are greatly in ignorance of the true burden of any tax, as we have come to realize that the person who truly bears the burden of a tax may have no relation to the person who pays the Treasury.

It is time, perhaps, to rethink the problem of taxation. Perhaps the government may be supported by a turnover tax or a value-added tax or a flat-rate wage and salary tax, or a tax on some other base which does not require the intricate rules or intrusive enforcement apparatus of a tax on income.

It should be noted that this approach says nothing about the morality, or level of taxation or the use of taxation as a tool of redistribution. It is simply addressed to the proposition that our present system of taxing incomes has necessary implications which are becoming increasingly disturbing to any person who is concerned for civil liberties.

If there is sufficient interest, I would be willing to help organize a conference of lawyers, political scientists, and others to examine these issues, and I would appreciate hearing from any who feel that it is worth pursuing.

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Davis Keeler's Money column alternates monthly in REASON with John J. Pierce's Science Fiction column.

LETTERS

(continued from page 11)

humanize libertarianism without compromising it? A tough question; one I'm not competent to answer.

Or must we let the old die without liberty?

I hope you try to provide answers to some of these all-too-real—not just theoretical—problems.

And one more thing: It's time you supported your laissez-faire theories with facts. I can't hold my own in a discussion without hard data. Opinion ain't enough, no matter how articulate I happen to be at any given moment.

Lawrence Miller
New York, NY

Letters from readers are welcome. Each receives editorial consideration, although only a selection can be published and none individually acknowledged. They should be kept as brief as possible and are subject to condensation. Letters submitted for publication in this column should be typed, double-spaced. Send letters to REASON, P. O. Box 40105, Santa Barbara CA 93103.

CLASSIFIED

(continued from page 50)

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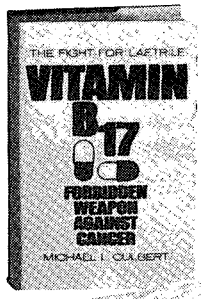

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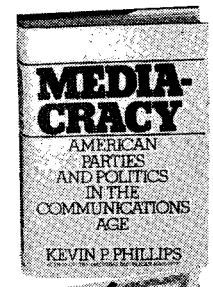

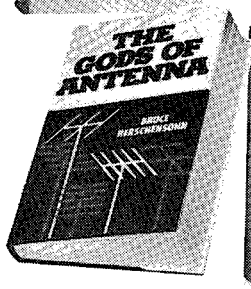

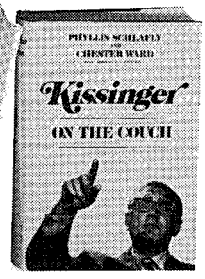

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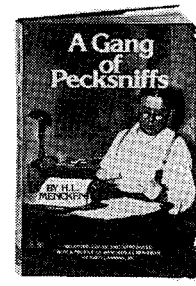

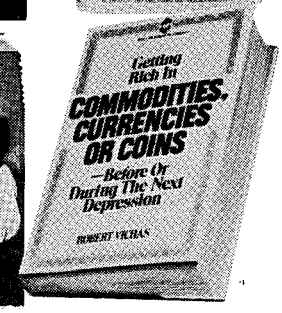

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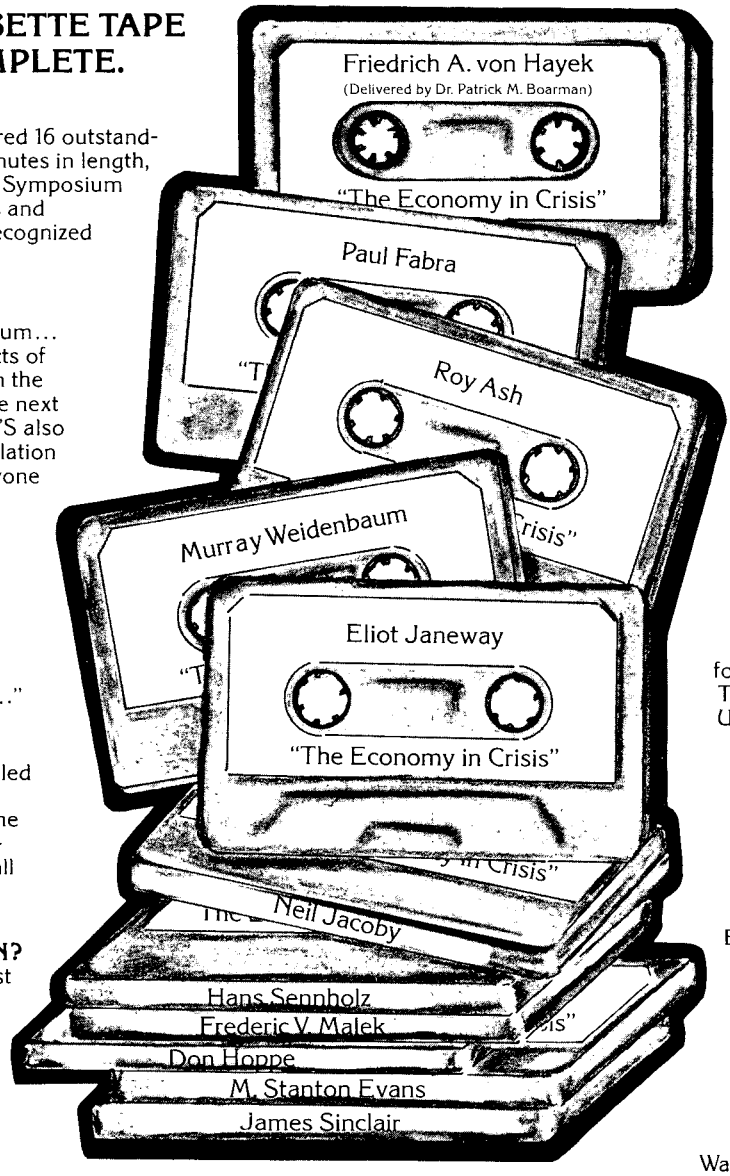

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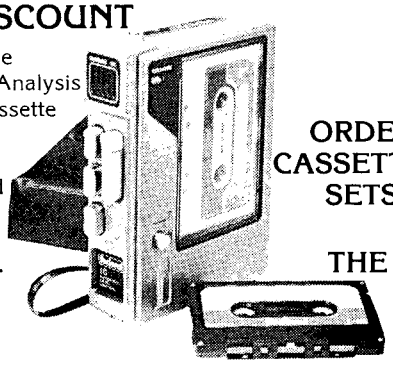

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